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UNITIE TRVTH and REASON.

Presented in all Hu-

mility Petition-wise to the Ho-
nourable, the Knights, Citizens and
Burgesses for the Commons House
of P A L I A M E N T .

By some moderate and Peace-desirous Ministers,
for the more quiet and certaine reconciling
of the Churchmen.



L O N D O N .

Printed for Thomas Underhill, in the yeare, 1641.



To the READER.

IT was not at first intended that this following Discourse presented Peccition-wise should fly so publike-
ly: but such modesty and truth withall are both so evenly
expressed, that the eyes of envy, malice, and unchari-
tablenesse (which usually are most quicke upon actions
of this nature) cannot take just advantage, as farre as
we can apprehend. We therefore on the behalfe of our
selves and others, doe humbly crave, that what is here
presented with adexterum intentionem may not have a
finister acception.

MUSEVM
BRITAN-
NICVM

TO

TO THE
HONOURABLE
the Knights, Citizens, and
Burgesses for the Commons House
of Parliament.

Humbly representeth,

 H A T Episcopacie is a frame anciently raised out of the Pastorall place, buite up with Chancellors, Deanes, Arch-Deacons, Commissaries, Surrogates, Officials, Apparitors, &c. And further finished with their Confraries, High-Commission, Oath *Ex Officio*, Books of Canons, old and new, Books of Recreation and Liberty, Ceremonies, and manifold Innovations enlarged, especially in late times by violent and intemperate Spirits, which have pursued many of the best lived of the Ministry and People, with too much heate; insomuch that many choice Men have bin wormed out, the most scandalous cherished, Doctrine adulterated, the fire of zeale quenched, Tyrannie exercised, especially over the Consciences of their Brethren, Primitive Discipline defaced, the judgements of

many engaged for Episcopacie *Jure divino*; Civil Warres incouraged (the most dangerous and hazardous undertaking of a State.) In the mean time the Prelates not sufficiently sensible of the dishonour of our gracious Soveraigne, and securitie of these happy and Illustrious Kingdome. Nay, besides all this, many of the late Church-Governours haue also complyed too much with the Popish Faction, and drawn (*quantum in illis*) the *odium* of the late disturbances upon his Majestie (let them pretend what they please) and dishonour upon the Protestant Religion, in the eyes of the Romish party, and the whole world by their tongues, pennes and indeavours.

May it therfore please this Honourable House to take Episcopall Government into your grave and serious Consideration. And if it may stand with the wayes and customes of this Honourable House, That our Petition may be presented to the House of the Lords, and finally to his most excellent Majestie.

1. First, that a speedy survey may be taken of this old-ruinous and decayed building by a Commission *ad inquirendum*, concerning the truth of the numerous Complaints from all parts of this Kingdome. When God visited Sodom in Judgement, he first sent his Angels to inquire of the truth of the crimes thereof.

2. If upon just and exact triall the whole building from the foundation to the highest part of the superstructure, prove sound; God forbid

bid any moderate spirit should desire the alteration of a Government so long established: but if (in *1010 compisio*) there be an universall dissolution and weaknesse of all parts, that then the old decayed frame may be taken down; and such a new modell propounded as may most nearely agree with the Word, the Apostles, and Primitive times: with the Assistance of a select Company of grave pious-learned and Orthodox Divines, in nature of a Nationall Synod, which may be chosen by your singular care and wisdome, gathered out of all parts of the Kingdome, and authoriséd for that purpose. And in case it may stand with the pleasure of his Majesty, and this High and Honourable Court of *Parliament*, that some *Scots* and *Irish* Divines may be also admitted to such Assembly, which may happily tend, not only to mutuall information of themselves, but to a more firme obligation of all members in these Churches in Civill or Ecclesiasticall affaires under our most gracious Sovereigne as Supreme Governor unto a more firm union and obedience.

Notwithstanding all this, it is not the desire of your Petitioners, with the Soanes of *Zebedee*, that fire should come down from heaven and destroy this frame of Government; neither any illegall or precipitant violence should demolish it; such reverence doe we owe to the memory of those industrious-pious-learned Bishops, which have sometimes sealed the testimony of the Gospel;

pel with their blood. And to our happy Princes
 (whose Names are ever blessed with us) who have
 yielded all Princeely indulgence unto Episcopall
 dignities. Only thus farre do your Petitioners
 humbly sue, forasmuch as there is such a consi-
 derable number of grievances and complainants,
 through the whole Kingdome, (as may appeare
 by the numerous Petitions and Remonstrances
 to this Honourable House,) That in the meane
 time whilst a Commission issues out for a more
 full discovery of Corruptions in Ecclesiasticall
 Government and Ministers, notoriously scanda-
 lous, the above-named Ecclesiasticall Assembly
 be called, and Episcopall Governours allow'd a
 faire and legall tryall by Ministors, men of their
 own Order (as Lords are tryed by their Peers)
 but impartiall, and not ingaged by the dignities
 and preferments of the times.

And if it may not favor of sawcines, or too
 high presumption, May it please this Honoura-
 ble House, to require the Episcopall party to as-
 signe some of their own choice to answer in such
 a well constituted Assembly, and to give liberty
 to the Presbyteriall Disciplinaries, as in *Scorland*,
 or them of the Pastorall and more Independent
 way, as in *New England*, to come in and oppose,
 only give leave we beseech you that the Word
 may be the moderator in this Nationall Synod.
 And if we may not be thought to presume upon
 this intelligent and Religious House, we humbly
 sue, First, that in such a well dispos'd Assembly,
 the

the Doctrine of the Church may be cleared and
explaine.

Secondly, the Discipline questioned. First
by what tenure Episcopacie holds, whether *Jure
Divino, vel Ecclesiastico?* If *Divino*, it must necessa-
rily stand for ever. Secondly, if *Ecclesiastico*, whe-
ther it be not alterable according to Corrup-
tions attending it, or the varying Constitutions
of particular Churches, or the like considerable
Circumstances?

3. If alterable, whether this Government may
safely be altered in this Church of England?

4. If it may be altered, what Government
can be propounded more nearly agreeing to
the Word, and more fit for these times?

5. Whether Christ left any certaine and ne-
cessary Discipline to be observed in his Church
for ever?

6. Whether Examples, which have not
grounds on expresse Rules, or necessary Conse-
quences out of those Commands doe bind the
Conscience to subjection, as to an Ordinance of
Christ?

7. Whether it be not fit for Christians rather
to follow the Examples of Christ, his Apostles, or
the purer times for Presidents, then the more
degenerate and corrupt times of the world?

When these or the like Questions are well
discussed and decided, The confirmation of such
Acts of Assembly as shall be then determined,
we submit unto the wisdome of this Honourable
House.

In

In the meane time most noble Patriots, suffer not the glory of our Church to set under a cloud. We have betrusted you with our selves, and all ours, faile us not in the maine, (*viz*) in the matters of Religion, neither Doctrine nor Discipline.

Begin we beseech you where your forefathers left, in the dayes of King Edward the 6th. Let the noble bloud of your Ancestors which runs in your veynes induce you to perfect the glorious beginnings of your renowned Predecessors. Never think the Common-wealth can be well healed, unlesse the Church be also Cured. Did not our sufferings in the Church lead the way to yours in the Civil State? If you conceive your worke is fully ended, when the Commonwealths grievances are removed: God himselfe will not take it well at your hands to leave *Sion* weeping, and none comforting her. You have come on nobly and like religious Patriots, in giving faire hopes of easing the distressed part of the Church: Go on like your selves, and the God of Heaven prosper you. Let not golden Balls turn you out of the way: Neither Syrenian musicke, nor Crocodile teares of the degenerate part of the Tribe of Levi captivate your judgements. You have the whole Nation ingaged to be Servants unto the King for ever in a stricker bond, if you his great Councell of State, according to his trust in you, see Religion freed from the complaints and grievances of it. It is true,

Epis-

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Episcopal Government, with their nearest friends, think it scorn to come to triall of their title. We are not ignorant of many of their thoyself Arguments: but if you please with patience to survey them, you shall find they have studed fali-lacies more then demonstrations. It is true, they pretend 1. the Word: 2. Antiquity. 3. Reference to our Laws. 4. Order. 5. Suppression of Errors, Schismes, and Heresies. 6. Incouragement to Learning. 7. Conformity of Episcopall Government unto Monarchie. All specious pretences we confess, like the Grapes and fruits of Sodas: but if you touch them they fall to Ashes.

First, the Word, no better plea in the world, nor stronger Argument, if the pontificall side would shew but one expresse Command or necessary inference for Episcopacie over the Clergie(it is our meaning) to be a constant and standing office in the Church; we should think our selves deserved to lose our Estates, liberty, life and all, for speaking against a Law of God's own making. But whilst the great Clerks of the Kingdome in this *mota dicunt, nihil probant*. We must desire this Government (but in an Ecclesiasticall assembly) may goe to the question.

Secondly, *Antiquity*, a plea which would well have served in the dayes of *Hezekiah* and *Josiah* for keeping up the High Places, because they had continued from the dayes of *Solomon* or before. If this Argument were sufficient, the Re-formers in the dayes of *Edward the 6.* and *Queen*

Elizabeth of famous memory should have staid their hands from taking away such ancient Ceremonies as had continued many hundred years.

Upon this ground an old ruinous House which is rotten from the foundation, to the highest part of the superstructure should not be pulled down; vpon the like ground old Vines, where the *humidum radicale* is quite gone, and fruit ceases, should not be plucked up, nor others planted in their room.

The brazen Serpent was at the first erected upon better warrant then ever Episcopacie, yet when it grew worm-eaten with corruption of Antiquity, *Hezekiah* made bold to take it down, and the fact is fronted with the name of Zeale unto Immortality.

Thirdly, Reference to our Laws, It is true, Episcopacie is too truly and too much inter-woven with the Statutes of this Kingdome; Not that Episcopacie strengthens the Laws, but the Laws Episcopacie. So that it seems no necessary Argument for this dignity standing *Statu quo nunc*, but rather serves for a good caution, that in the taking down of this old frame, the Statutes of the Land suffer no violence, which we doubt not but by the wisdome of this Honourable House, may be well contrived.

Fourthly, Order, a great deale of reason for it, if Order doe not violate that eternall and indispensable Rule of charity, unto which the Episcopall Government hath done much violence, by

by their Pride and Tyranny over the Consciences of their Brethren. In such case we desire the Word, Christian Liberty and Charity may be preferred afore any pretended Order in the world.

Fiftly, Suppressing of Schismes, Errors, and Heresies; we deny not but when Episcopacie was first rayled and instituted in the Church, there was such a politick intention, but Where is the Successe? Have not Corruptions, Schismes, Errors, if not Heresies, more grown under the shadow of Episcopacie, then under any other Reformed Protestant Church in the world?

Let the Remonstrance of the Ministers speak unto this, together with the Numerous Complaints from all parts of the Kingdome. It is not to be denied, but as these Weeds, so much precious Corne hath grown within the bounds of Episcopal Government, not that we must thank the smiles and indulgence of the Pontificiall party, but their frowns, brow-beatings, and manifold oppressions, or rather God himselfe, who multiplied the Israelites under Pharaohs Tyranny and Cruelty.

Sixtly, Encouragement to Learning, Give loosers leave to speak, let the inferiour Clergie of the Kingdome (as they are usually called) come in, and speake what they usually feel in their own experience; Doth not the burthen and heat of the day lye upon poore Parsons, Vicars, Lecturers, and Curates? What encouragement to

Learning, whilst a few Bishops, Deanes, Arch-Deacons, &c. swallow up the best and richest part of Ecclesiasticall maintenance, taking little or no paines, in feeding the soules of the people, studying only Law-suits; how to rise higher in the world, and to sowe dissention betwixt Kingdomes, Princes, and their Subjects, when the injurious Clergic in the meane time must sit below the salt, gather up the Crums from under Episcopall Tables, and account it fayour enough to have a nod from a Bishop; nay happily less then that, an hollow-hearted leave or Licence to use a Pulpit in his Diocese.

Seaventhly, A Conformity of Episcopall Government unto Monarchie. We confess the Conformatie is too much and too neare. For Kings send out Writs in their own Names (as it is, sic they should) to doe Bishops. Kings Rule and Command to doe Bishops: yet this Conformatie in Government unto Monarchie, cannot induce our Charity to think they (at least many of them) can cordially affect Supreme Government whilst so many in latter times have complied so much with the Pope in all Papall usages, the greatest enemy to all Kingly Government. How can we judge, but if opportunity served, they would fall in with the Pope in matter of Supremacie, as in other his Traditions; Besides our Bishops in late dayes have cast the *odium* of all unacceptable Commands upon the King, a point of Bishop-craft we confess, but never used by faithfull States-

Statesmen to their Princes, since the beginning
of the world, till these our dayes. Whereas, we
(though the lowest of the Tribe of Levi) dare
present unto this Honourable Assembly, we
could be contented to wipe off with our blood
the least aspersion upon the honour of our most
gracious Sovereigne, whom we sincerely value
above all Printes of the world.

But now most noble Senators, whetherton, we
beseech you, the candor and ingenuity of our
intensions, we doe accuse it an inexpiable fault
to prescribe unto you that must preſcribe Laws
to us; only we prostrate what we have propoun-
ded in all humility at your feet, wherein we have
both exprefſed our grievances and Petitions.
Notwithſtanding all abovesaid, we are not ſo
fain out with Epifcopall Government: but if it
ſeems good to his Majefty, and this High and
Honourable Court of Parliament to continue it,
we can (as formerly) ſhadow under the shadow
of its iftelle Authority or it be ſufficiently cleared
by a well conſtituted Church Aſſembly, where-
unto we ſhould willingly ſubject, as a way of the
Church (anciently uſed) in ſuch diſculties; only,
in eafe it be thought meet upon advise by your
ſingular wiſdomes to continu Epifcopall Go-
vernment in the Church; be pleased that the
ſting therof be taken away: we meane the High-
Commission burthenſome and ſuperſtitious Offi-
cers, the unnecessary Ceremonies and Subſcrip-
tions, according to their Canons, which they
have.

have only used as snares and nets to catch the Innocent and faichfull in the Land; And tho scandalous Ministers removed, the spots and blemishes of the Ecclesiasticall State. But in case such a Church Synod, or Assembly, doe finde a Presbyteriall, or Pastoral, and independent Jurisdiction to be more nearely agreeing unto the Word, and more fit for the present Constitution of our Churches, May it then please you to incourage that way which comes nexte to the mind and will of God, and suits best with the present state of times.

So that finally, the sum of all we sue for, is, that Justice may be eminently done unto all sides, and truth (with leave of his Majestie, as Supreme) may by the best Reason hew out its way in a Church Assembly or Synod, unto peace and unity; not that we any way suspect your Candor or Integrity, with whom we have trusted both our selves and all ours: But because the premised Considerations doe chiefly fall under Ecclesiasticall cognizance, it would be most satisfactorie (under correction of more sublime judgements) to the minds of all men, and no way derogatory to the honour of his Majestie, or this High and Honourable Court of Parliament. If such of the Ministry as have not violated their Consciences, nor staind their garments, but men of good temper, Piety, Learning, and consulting heads should be authoriz'd to advise in the matters of the Church both Doctrine and Discipline.

Pardon

Pardon we beseech you, our rudenesse, and
brokennesse of our expreſſions, Truth is never
ſo amiable as when ſhe goes in her playneſt garb.
Honour us ſo farre as not to take us for the giddy
Sons of *Apollo* who would ſet the whole world
on fire. We abhorre the intemperance of ſuch
ſpirits. And doe humbly deſire that all Pamph-
lets may be ſtaid from the Preſſe, which take
upon them (afore their time) to propound mo-
dells and new foimes of Government till a well
Conſtituted Church Aſſembly have fully diſcuſſed
the maīne queſtions now in Controversie.
So ſhall you honour *God Almighty*, bring out
the Truth more fully, which is now overclouded
and obscured; perform the Trust which his Ma-
jeftie hath put in you; happily unite more firmly
theſe Churches of *Eng/and, Scotland and Ireland*.
Make our State admired in the eyes of forraigne
Churches, pull down the proud and mighty from
their Seats, and exalt the humble and meek. And
by ſuch happy ſatisfaction in all Eccleſiaſtically
wayes, you ſhall in̄gage the Church to pray more
 fervently for the happiness of our Illuſtrious
King, and this flouriſhing Common wealth.

Which *God grant, Amen.*

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F I N I S.

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THE LIBERTIE OF THE Subiect : A G A I N S T T H E P R E T E N D E D P O W E R O F I M P O S I T I O N S.

Maintained by an Argument in
Parliament An°. 7°. J A C O B I Regis.

By { WILLIAM HAKEVVIL }
of Lincolns Inne Esq.

R. Hakevill



L O N D O N ,
Printed by R. H. An. Dom. 1641.



THE HISTORY OF A RICH AND LOVING LIFE

BY JAMES HENRY BREWER

WITH A PRACTICAL COMMENTARY

ON THE PRACTICAL USE OF THE BIBLE

FOR THE PRACTICAL USE OF THE BIBLE



To the Reader.



Eing very sensible of a great Injury lately done mee , by the extreme false printing of a smal Treatise of my Composing, stoln out without my consent , and hearing accidentally that some part of this also had passed the Presse, I thought good for the preventing of the like wrong to stay the forwardnesse of the printer untill I had reviewed and corrected it by mine owne Notes. For my part, I should have been contented altogether to have restrained it , if I might, But now seeing it must abroad , I shall not bee ashamed to let it beare my name, and owne the errors of it my self (thoſe

To the Reader.

of the Presse excepted) though heretofore it had gayned so much reputation by some, as it was attributed to a wortier Author. Some there are yet surviving that heard this Argument about thirty yeeres since in the *Commons-House of Parliament*, but it hath now extended it selfe beyond the probable proportion of a Speech or Argument, by the insertion of many Records and Acts of Parliament more at large, which at the delivery of it, were but merely quoted.

The Endeavour of it is to prove that the just Prerogative of our Kings never warranted them to raise monies at their pleasure, by laying a charge on Merchandize to bee Exported or Imported, without assent of Parliament. But, on the contrary, the settled Lawes of the Land, the Presidents of former Ages, the Acts of our most necessitous and powerfull Princes, and indeed every thing requisite to make the Truth

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To the Reader.

apparent, doe as it were unanimously consent to discharge us of this unjust and heavy Burthen.

And you shall see herein how the policy of active Princes hath by many waies attempted to undermine those Fortifications which the wisdom of our Ancestors hath rayfed to maintaine themselves from this kinde of Assault. You shall see with how great difficulty their prevailing was withstood : And (which is the glory of Truth) you shall finde those designes which were laid to overthrow our Right, mainly to make for the evidence and confirmation of it. For, whatever unjust Impositions were either exacted by a pretended lawfullnesse, or set up by a commanding power, were by complaint in Parliaments presently following taken down, and remain on Record as (witnesses against themselves) unlawfull, and against our Libertie.

These Reasons and Arguments of

A 3 mine

To the Reader.

mine (how meane soever) those times wherein I urged them, accepted favourably ; and since , in their private passage in manuscripts, were entertained in many judicious hands, which made mee somewhat enlarge the conceit that before I had of them ; And now seeing necessitie enforceth mee to make them more publique , I must adventure them to the censure of these nice times. Beneficiall(happily)they may be to some, prejudicall I hope to none : In which confidence (having the leave of Authority) they have likewise my leave to goe abroad.

Vale.

W. H.

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M^r.



Mr. SPEAKER:

HE Question now in debate
amongst us, is, Whether
his M^{ie}. may, by his Pre-
rogative Royall (without
assent of Parliament) at
his own will and pleasure, lay a new
Charge or Imposition upon Merchandizes,
to be brought into, or out of this Kingdome
of England; and enforce Merchants to pay
the same.

I Must confess, that when this Point was first
stirredmongst us, and that wee, not con-
tent to seeke redresse for the excesse of the
present Impositions, resolved to proceed fur-
ther, by calling his Majesties right of Impos-
sing into question, I was very sory: for I saw we
were thenin a faire way to haveobtained a very
great abatement of the Impositions that now

B are;

are ; and besides, we had his Majesties promise never to lay any more but in Parliament time, by the advice and free consent of his Subjects, repayring hither from all parts of the Realme ; This hope of a present easse , and gracious promise for the time to come, gave me (I confess) a full satisfaction; especially , seeing I was confidently perswaded that his Majesties right to impose was very cleere and not to be disputed, and that therfore by drawing into question the right, wee might give his Majesty just occasion to withdraw from us his gracious purpose of the present abatement , as also his promise for the time to come : For Syr, when the Case of *Batas* (who as you know was called into question for refusing to pay the Imposition laid upon *Currans*) was argued in the Exchequer , in which Case his Majesties right to Impose, was solemnly disputed (and there resolved for his Majesty) I was then present at all the Arguments both at the Bar and at the Bench ; And I doe confess that by the weighty and unanswerable reasons (as I then conceived them) of those grave and reverend Judges, sitting in their seat of Justice, I was much perswaded ; but by those many records vouch'd by them, I was altogether overcome, and as it were vanquish't to yeeld to them ; for Syr, *Ratio suadet, Authoritas viscit* : But though I were then, and when the Question was first moved in this house, ver'ry confident, yet as you shall perceve anon, I was

Fleming Ch.
Bar.
Clarke.
Savil.

was not very constant in that opinion; for being (amongst others) employed by this house to make search in the Exchequer for Records, which (by the practise of former ages) might guide our judgements in this weighty point, and having diligently collected the Arguments made in the Exchequer, and not only so, but compared my owne collections with Reports thereof made by divers other of my friends, &c finding that some of the Records urged in those Arguments were untruly vouch'd (and many misaplyed) I then began to stagger in my opinion, and presently set to examine the weight of the Reasons which had been alledged, which in my poore censure, I found not of strength sufficient (without the full concurrence of cleare Presidents of former times) to maintaine the Judgement given, or my Opinion grounded thereupon: And therefore (Syr) In love to the truth I did forsake my former opinion as erroneous, and do now embrace the contrary; that is, *That his Majestie hath no right to impoſe*, and so am now become a convert. Those Reasons that moved me thus to change, and to be weakende which I discovered in the Reasons alledged against the opinion which I now hold, I will, with your patience, open unto you, and will therein follow the commandement of Christ to Peter. *Beinge converted, ſeeke to convert thy brethren.*

As touching the Judgement in the Exchequer

(4)

quer standing yet in force, so often cast as a block in our way, though I much reverence the persons of those yet living, and the memory of those that are with God, who gave the Judgement : Yet seeing (as I hope I shall bee able evidently to prove) the same to bee against the great *Charter* of our Liberties, I can esteem no otherwise of it then the Statute of 25. Ed. I. cap. 10. pronounceth of all such Judgements, that is, that it is void and to be held for nought. Thus much I thought good to say by way of Preamble or Introduction to the matter: now (by your favors) I will enter into the debate of the Question; in handling of which I will purposely avoid the repetition of any thing that hath been spoken by any man that hath argued before, as knowing in what presence I speake. That I may the better convey my selfe through my Argument, and be the better conceived of you that are to heare me, I will divide that which I have to say into certain parts, which I will prosecute in order.

First, I hold it necessary to consider whether Custom were due to the king by the Common-Law.

Secondly, admitting it to bee due by the Common-Law, whether it were a summe certain, not to be increased at the kings pleasure, or otherwise.

Thirdly, supposing that by the Common-Law the king might, by way of imposition,
have

have increased his Custom at his owne will, by his absolute power, without assent in Parliament, whether or no hee bee not bound to the contrary by Acts of Parliament; In the handling of which part, I will consider the strength of every A&t of Parliament hitherto vouch'd to this purpose, answering, as I goe, such objections as have been made against those Statutes by such as have maintained that the King is not bound by them. I will also add a Statute or two as yet not remembred by any. Lastly, I will discover unto you the weaknesse of such Reasons as have been made in maintenance of the Kings right to Impose; in the prosecuting of which parts I will (as occasion is offered) give some answere to that which hath been last spoken; as knowing it to be expected at my hands.

By Sir Robert
Hitcham.

First then to consider Whether there were by the Common-Law any duty belonging to the King upon Merchandize to be caried into or out of the kingdom, known by the name of Custom. Though the maintenance of Custome to be due by the Common-Law be a point of such consequence to them that maintained the Kings right to Impose, as without the upholding of which their opinion (as I conceive) is not so much as colourably to be maintained, and that to maintein the same it be not at all necessary to induce my conclusion; and although to admit it, it may seem perhaps no good policy of Argument, but

rather a great disadvantage to me to admit that, without which the contrary part cannot uphold their opinion, and which being admitted cannot make any thing for me; yet because we are here not as Arguers at the Bar, but as Judges in a high-Court, and that all our ends tend to the discovery of the truth: I will therefore not only admit it, but will mainteain it as well as I can.

That there was
ever some Cu-
stome due by
the Common
Law.

That Custom is due by the Common-Law I collect, first by the name thereof, for though at this day it bee (and so hath beeene for more then 350 yeeres as I shall have occasion more fully anon to open unto you) called in our law-Latin *Custums*, yet in ancient time it had no other name here amongst us (for I meane not to wander into forreign-learning) then *Confuetudo*, as may appeare by the Statute of *Magna Charta* cap. 30. *Per regulam & antiquis Confuetudines* (for I shall anon directly prove unto you that *Confuetudo* in that place is not to be understood, a usage, as hath been said; but in that sence which I take it.) This name *Confuetudo* in the same sence is also found in many ancient Records brought into this house upon the late search; That this name then *Confuetudo*, which implies an approved continuance without a known beginning should by the Common-Law be given to this Revenue more then to any other Revenue belonging to the King; nay, that this name which is the common and gene-
rall

rall name to all common and approved usages, of what nature or kinde soever should be applied to this dutie rather then to any other amongst all the ancient usages and Customes which the Common-Law embraceth, cannot but denote the great antiquity thereof, and more then so, the allowance and approbation thereof by the Common-Law; for doubtlesse, if, beside the antiquity of this dutie, the Common-Law had not also alowed the reasonablenesse of it, and in a manner the necessity of it, it would never have denoted it unto us by this name of excellency above all other Customes which require reasonablenes as well as antiquity: Therfore doublesse this duty, thus favored, is a Childe of the Common-Law; nay farther, it is of the very essence of a Custome to have his only beginning by alowance of the Common-Law; for that which beginneth by private contract of partie, or by Act of Parliament, & dependeth not wholly upon the alowance of the Common-Law (by one of which three waies, all things considerable in Law, have their commencements) cannot bee called or bee a Custome, in Name or Deede; moreo-
ver considering that this Custome is not limi-
ted to any one place within the Realme, wee
shall so little neede to be curios in affirming it
to bee due by the Common-Law, as wee may
boldly pronounce it to be part of the Common-
Law it selfe. Thus you see that the very name

Consuetudo proves Custome to bee a dutie by Common-Law : To this may bee added that *Magna Charta* cap.30. which (Statute was made little morethen 150 yeeres after the Conquest) termeth this not only *Consuetudo* (which as I have said, implies Antiquity beyond all remembrance of a beginning) but *Antiqua Consuetudo*; not onely Custome, but old and ancient Custome. And in comparison to this old Custome due at Common-Law, the Custome upon Staple Commodities, given or increased by act of Parliament, 3 E. I. not printed, was called *Nova Consuetudo* : Before the making of which Statute of 3 E. I. you may further see, that Custome was due: For an. 52. H. 3. in the Statute of the Exchequer, printed, you may read, that the Collectors of the Custome of Wools were to yeeld their accompt twice every yeere into the Exchequer. But that which most of all moveth me to beleeve that this duty was and is due by the Common-Law, is this; That in all Cases where the Common-Law putteth the King to sustaine Charge for the protection of the Subject, it alwayes yeeldeth him out of the thing protected some gaine towards the maintenance of the Charge: As for the protection of Wards, Lunatiques, and Ideots, the profits of their Lands; For the maintenance of the Courts of Justice, it giveth him Fines for purchase of Originall writs, and Fines *pro licentia Concordandis*, which in supposition of Law are no other than

than Fines paid for not proceeding according to the surety by pledges, put in upon purchase of the Originall ; and for troubling without cause the Kings Justices, who are maintained in their places at the Kings charge: There are many the like profits of Court given by the Common-Law to the King for the maintenance of his charge in the administring of Justice.

This observation, which might be further proved by divers other instances in things of other nature, maketh me to think, that because the Common-Law expecteth that the King should protect Merchants in their Trades, by maintaining, repairing, and fortifying the Havens at home; by clearing the Sea of Pirates and Enemies in their passage; and by maintaining Ambassadors abroad to treat with forreigne Princes upon all such occasions: That it also giveth him out of Merchandizes exported and imported, some profit for the sustentation of this publique charge; otherwise were the Law very unreasonable and unjust. So as to prove that by the Common-Law Custome is due to the King, I shal need to say no more, especially considering it hath not onely been yeelded to, but proved by those which maintain a contrary Conclusion. I will therefore proceed to my second Consideration: Whether that profit upon Merchandizes, which the Common-Law for these respects gave unto the King, were a duty certaine, not to be increased or abated at the

Kings will and pleasure, without a common assent in Parliament ? Or otherwise, Whether the Common Law hath left an absolute power in the King , to demand in this case more or lesse at his owne pleasure , and to compell his Subjects to pay it ? The resolving of which question will as I conceive , make an end of this controversie between us ; for what are these Impositions which wee complaine of , other than the enhauncing of the Custome by the Kings absolute pleasure ?

That Custome
due by Com-
mon Law, was
a Sum certain.

That this duty given by the Common-Law (as I have proved) unto the King , was and is a duty certain , not to be enhaunced by the King at his owne pleasure , without assent in Parliament , I hope I shall be able clearly to prove unto you : In mainteinance of which , I will use some Arguments of direct prooфе, and others of great presumption and probability . And first , I lay this as a ground which will not be denied me by any man ; That the Common-Law of England (as also all other wise Lawes in the World) delight in certainty , and abandon incertainty , as the mother of all debate and confusion , than which nothing is more odious in Law : And therfore the rule is , Quod certum est retinendum est; quod incertum est dimittendum ; nay further , quod incertum est nihil est : This is the censure of Law upon all the acts of men which fall under the judgment of the Law . If then the Law so judge of the acts of men , holding them for noughe and voyde,

voyde that are incertaine ; how much more then doth the Law require certainty in her own Acts, which are to binde all men : And if in any of the acts of Law certainty be to be specially expected, most of all is it requisite that bounds of limitation and certainty be set between the King and his poor Subject, between the mighty and the weak, between the Lion and the Lamb. And if in any Case between the King and his Subject more than other, this certainty be required, most of all it is requisite in Cases where the Common-Law giveth the King a perpetuall profit or revenue to be raised out of the interest and property of his poor Subjects estate, either in lands or goods. If in all other things the Law (as I have said, and wherein I suppose you have yeelded to me) doe require certainty and limitation, and onely in this case where it is most requisite, it hath omitted and neglected it, we must conclude the Law to be most unreasonable, improvident, and contrary to it selfe; which to say, were to conclude it to be no Law. Out of these grounds I may then in my opinion safely and with some confidence deduce and maintain this position, *That the Common-Law of England giveth to the King, as to the head of the Commonwealth, no perpetuall revenue or matter of profit out of the interest or property of the Subject, but it either limiteth a certainty therein at the first, or otherwise bath so provided, that if it be uncertaine in it selfe, it is reducible to a certainty,*

That all the Revenues which the Common Law giveth to the King out of the interest of the Subject are certain, or reducable to a certainty by a legal course: and none left only to the Kings pleasure.

only by a legal course, that is to say, either by Parliament, by Judges, or Jury, & not by the Kings own absolute will and pleasure. Though this Position be grounded upon those three foundations out of which I have (as you perceive) drawn it, and needs no farther proof: yet because you shal see how plentiful the truth is in reasons to maintain it selfe, I will further open unto you the particular reasons of this position, which are these:

The Reasons
why the Law
requireth such
certainty in
those Reven-
nues.

First, the Law requireth certainty in matter of profit, between the King and the poor Subject, because to make any man Judge in his own case, especially the mighty over the weake, and that in a point of profit to him that judgeth, were to leave a way open to oppression and bondage.

Secondly, because by reducing it to a certainty, the King may know what certainty to expect; that so he may order his charge accordingly.

Thirdly, that the Subject may know likewise what he is to pay, that so he may know certainly what shall remaine to him as his own.

Finally, that the King may not depend upon the good will of his Subject for his revenue, seeing the Law expecteth he should bear the charge, but may know in certainty what to claime as due to him, and may accordingly compell the Subject to pay it; and that the Subject may not be under the Kings absolute power to pay what the King pleaseth, which may perhaps

perhaps extend to the whole value of the Merchandise.

You see in generall, how the Law by requiring certainty in matter of profit between the King and the Subject, preventeth many mischieves which would fall out if the Law were otherwise; and therefore without more saying, I might here conclude, that Custome being due by the Common-Law, was and is a sum certain, not to be increased at the Kings pleasure by way of Imposition: but because there are many other revenues due to the King by the Common-Law, as well as Custome; if they all, or as many as we can call to minde, shall fall out to bee (as I have said) summes certaine and not subject to bee increased at the kings will, this will bee a forcible Argument, that custome is likewise certain and not to be enhanced at the kings pleasure; for, this Argument drawne à simili is of great force, and the most usuall of any other in debate of things doubtfull in Law. *Quæ Legibus decisæ non sunt Index ex his quæ decisæ sunt statuet, & de similibus ad similia procedat.* May it please you to consider in this respect other revenues which the Common-Law of this Land giveth the King; and according to the rule, to decide that which is in question by the same rule and measure by which other things of the same nature have been decided and ordered: The Common-Law giveth the King a Fine for the purchase of an original writ;

Examples of Revenues given by the Common-Law to the King, out of the interest of the Subject; that they are certayne.

Is it certaine? it is, and ever hath been; if the debt or damages demanded amount to above forty pounds, the Fine is, and ever hath been six shil. eight pence, and no more: if to a hundred pounds, then ten shillings, and no more: May the King increase this Fine at his pleasure? there is no man that will say he may. There is a Fine due by the Common-Law, *pro Licentia concordandi*; is it not certainly known, and so hath alwayes been, to be the tenth part of the Land comprised in the writ of Covenant? And is not also the Post-Fine thereupon due certainly known to be once and a halfe as much more as the Fine *pro licentia concordandi*, or Pre-Fine? As for example, when the Pre-fine is ten shillings, the Post-fine to be fifteen shillings: and can the King demand any more of the Subject? So likewise, when in a writ of Right, the Demandant alleadging the seisin of his Ancestor, will not be compelled to prove the seisin alleadged, is he not to tender to the King a summe certain of a demy-mark, to have this benefit? was it ever more or lesse? or can it now be more if the King would? these, amongst many others, are duties belonging to the King by the Common Law from the Subject, for the maintenāce of his Charge in the administration of Justice, which the Civilians call *Vestigal Judicariū*. There are also in divers other Cases duties certain, belonging to the King by the Common-Law: As for example; the relief for an Earledome is certainly

tainly knowne to be a hundred pounds ; for a Barony a hundred markes ; for a Knights fee a hundred shillings : all which in the Statute of *Magna Charta, cap.* are called old and ancient duries : this is *Vellegal Patrimoniale* ; of which sort I could produce many others , all which have like certainty . Nay , there is one duty well knowne to us all , which the Common-Law giveth to the King ; and is in his nature a Custome (our very case) in which the King is bound to a certainty which he cannot exceed ; and that is *Prisage* , a duty given by the Common-Law to the King upon every shiploading of Wine brought into the kingdom by English Merchants ; and is one Tun of Wine before the Mast , and another behinde . I am unwilling to trouble you with any more particulars of this kinde : but let any man shew me one particular to the contrary , and I will then yeeld , that my position being false in one , may be in more : But till my position hath been in this point infringed , this generall concordance of the Law in all these particulars , is argument enough for me , without having alreaded other reasons , to conclude , that Custome being as all these are , a revenue due to the King by the Common-Law , arising out of the property and interest of the Subject , is (as all these are) limited and bounded by the Common-Law to a certainty , which the King hath not power to increase : *Ubi eadem Regia, endem Lex.* It may perhaps be here objected ,

jected, that the Ayd paid to the King upon the Knighting of his eldest Sonne, or marriage of his eldest Daughter, was by the Common-Law uncertaine; and that the King did take more or lesse at his pleasure, untill he was bound to the contrary by Statute. To this I make divers answers : Though it were indeed a summe uncertaine, yet the Common-Law did in some sort give it a limitation ; for it is by a speciall name called *Reasonable Ayd* : So as if the summe demanded doe exceed Reason, it became from a *Reasonable Ayd* an unjust exaction. Besides, this revenue was a thing happening very rarely, and therefore the certainty thereof not so much regarded by the Law: and yet it is to be observed how the frame of this Common-wealth could not long indure incertainty even in this casuall Revenue ; but it was reduced to a certainty of twenty shillings upon a Knights fee, and 20^s upon every twenty pounds Soccageland, by the Stat. of West. I . cap. 35 . 3. Ed. I. If in this casuall Revenue they were so carefull to be at a certainty, to avoid unreasonable exactions (as the words of the Statute are) how much more carefull would they have been, for the same cause to have reduced the great and annuall Revenue of the Custome to a certainty , if they had not thought it to have been certaine by the Common-Law , or limited by Statute-Law before that time made ? But (Sir) that which I rely upon for answer to this objection, is this: *Reasonable*

sonable Ayd was and is by the Common-Law due as well to meane Lords as to the King: But meane Lords were not limited to a certainty, otherwise than in generall, that it must be reasonable, as I have said; therefore to limit the King any further, was no reason: And this answer may be given for all uncertaine Revenues belonging to the King, the like of which mean Lords have of their Tenants; for the incertainty of which there may also be given especiall reason, because these duties first began by speciaall contract and agreement between the Lord and the Tenant, and not directly by operation of the Common Law, and so were certain and uncertain as they did at first agree: and therefore you may be pleased to remember, how in laying my positio I was wary to say, *That such revenues as are due to the King as to the head of the Common wealth* (by which I purposely excluded such revenues as are common to him with other mean Lords) are always certaine. I am now according to promise, and in maintenance of a second part of my position, to shew you, *That where the Common-Law giveth the King a Revenue not certaine at the first, that is always reduceable to a certainty by a legal course, as by act of Parliament, Judges, or Jury, and not at the Kings pleasure.* Every man that by his tenure is bound to serve the King in his watres, and faileth, is to pay according to the quantity of his Tenure, a fine by the name of Escuage; this cannot be assised



but in Parliament : Upon forfeitures for treason, or otherwise, to the King ; though it be a kinde of a certainty that the Law giveth, in giving him all the estate of the party convict, both in goods and Lands, or in goodsonely, as the case is; yet for reducing it to a more expresse certainty, the Law requireth that it be found by Office. *Wayfe, Stray, Wreck, Treasure-Trove,* and such like, are no leſſe certaine, for the King hath the things themselves in kinde. Fines for misdemeanors are alwayes assed by the Judges, Amercements in all cases are to be afferred by the Country, and not to be assed by the King, though the forme of the Judgement be, *Et sit in misericordia Domini Regis*, in the Kings mercy *pro contemptu predicto*. Nay, though for punishment of an offence it be by Statute-Law enacted, that an offendour shall make Fine and Ransome at the Kings pleasure, the Law even in this case (which is as strong a case as may be) will not leave the asseding of the Fine to the Kings pleasure, to be by him rated privately in his Chamber; but it must be solemnly and legally done in an open Court of Justice by the Judges, who in all other cases are to judge between the King and his people, where the interest or property of the Subject, or any charge or burden upon them doth come in question, as may be proved by the booke of 2 R.3. fo. 11. Insomuch that I am of opinion, that if a Statute were made, that the King might raise the Cūstomes

stones at his pleasure, yet might it not be done as now it is, by the Kings absolute power, but by some other legall course, of which the Common-Law doth take notice; as in the case of the Fine and Ransome: much lesse then will the Common-Law permit, that it should depend upon the Kings absolute pleasure, there being no such Statute in the case.

You have heard out of what grounds I first deduced this my position, *That the Law requireth certainty in matter of profit between the King and his people.* You have heard likewise the particular reasons of that position: you have also heard what proofe I have made by particular cases of like nature to this in question; and how I have applyed them to the point: And so leaving the Judgement of the whole to your wisedomes, who can best discerne whether the Argument be of weight, I proceed to my second Reason, which is drawne from the policy and frame of this Common-wealth, and the providence of the Common-Law: The which, as it requires at the Subjects hands loyalty and obedience to their Sovereigne; so doth it likewise require at the hands of the Sovereigne, protection and defence of the Subject against all wrongs and injuries whatsoever offered either by one Subject to another, or by the Common Enemy to them all, or any of them.

This Protection, the Law considereth, cannot be without a great charge to the King;

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And

And because, as Christ saith, *No man goeth to warre upon his owne charge*, the Common-Law therefore hath not onely given the King great Prerogatives and favours touching his own patrimony, more (I beleeve) than any other Prince in the world hath; but also hath, for the sustentation of his great and necessary expences in the protection of his Subjects, given him out of the interest and property of the Subject an ample, and very honorable revenue in very many particular cases, some of which I will call to your remembrance.

He receiveth out of the Subjects purse for wardships and the dependances thereupon, as we have of late accounted, about forty five thousand pounds by the yeare. This is a Revenue which no other King of the world hath: And as it appeares by the Statute of 14. E. 3. c. 1. *It ought to be employed in maintenance of the warres*; and so doubleesse was the first institution of the Common-Law: For the Lord hath the profit of the Wardslands to no other end, than to maintain a man in the warre during the infancy of him who otherwise should serve in person.

He hath likewise all forfeitures upon Treason and Outlawry, and upon penall Lawes, Fines and Amerciaments, Profits of Courts, Treasure-Trove, Prifage, Butlerage, Wreck, and so many more, as the very enumeration of the particulars would take up long time.

time. To what other end hath the common-Law thus provided for the maintenance of the Kings charge , by all these wayes and meanes of raising profit out of the Interest and property of the Subjects estate in lands and goods, but onely to this end , That after these duties paid , the poore Subject might hold and enjoy the rest of his estate to his owne use, free and cleare from all other burdens whatsoever? To what end hath the Law given a part to the King , and left the rest to the Subject , if that which is left be also at the Kings will , to make his profit thereof as he pleaseth ? To give a small portion to him that may at his pleasure take more, or all, is a vain and an idle act; which shal never be imputed to a wise Law. But it may be objected that as the revenues are ordinary, so are they by the Law provided onely for the susteyning of the kings ordinary charge ; and that if the Law have not taken further consideration and limmited some certain course, how upon sudden and extraordinary occasions the kings charge may bee susteined , that there is yet no reason shewed to the contrary , why the king may not upon such occasion take some extraordinary course for the raysing of money , as by the laying of Impositions upon Merchandizes , or by a tax within the Realme , rather then the Common wealth for want thereof, should perish or be indangered. And hereupon by the knight that last spake, it was held that

*Answe're to an
objection, that
the King may
lay Imposi-
tions in times of
extraordinary
occasions.*

*Sir Robert
Hitcham.*

upon occasion of a sudden and unexpected war, the King may not only lay impositions, but levy a tax within the Realme, without assent of Parliament, which position in my opinion is very dangerous; for to admit this were by consequence to bring us into bondage. You say that upon occasion of suddaine warre the king may levy a Tax; who shall be Judge between the king and his people of the occasion? can it be tryed by any Legall course in our Law? it cannot: if then, the king himselfe must be the sole Judge in this case, will it not follow that the king may levie a taxe at his owne pleasure, seeing his pleasure cannot be bounded by Law? You see into what a mischiefe the admittance of one error hath drawne you. But for a full answer to the objection, I say, that the providence of the Common-Law is such, and so excellent, as that for the defraying of the kings charge upon any occasions of a sudden warre, it hath, over and above all the ordinary Revenues which it giveth the king (which in the time of warre cannot indeed but fall short.) made an excellent provision; for (Sir) *The warre must needs be either offensive or defensive : Offensive, must either be upon some Nation beyond the Seas, or against the Scots, or Welsh, or other borderers within the Iland : If it be an offensive warre upon some Nation beyond the Seas, it cannot be a sudden Accident, for it is the kings own act; and he may, and 'tis fitting he should take deliberation;* and

and if it be a just and necessary warre, he may crave, and easily obtaine assistance of his Subjects, by grant of Ayd in Parliament : *If an offensive warre upon some of his neighbors within the Continent of this Island,* as the Scots, or the Welsh, which also cannot be sudden or unexpected to the king, being his own act ; you know how politely the kings of this Realme have provided, by reserving Tenures, by which many of their Subjects are bound to serve them in those warres in person , at their owne charge : Only a *Defensive warre*, by invasion of forreign enemies, may be sodain : in which case the Law hath not left the king to warre upon his owne expence, or to rely upon his ordinary Revenue, but hath notably provided, That every Subject within the Land , high and low , whether he hold of the king or not , in case of forreign Invasion may be compelled at his own charge to serve the king in person , as it appeares by the opinion of Justice Thirring , in 7 H.4. The reason of which , in my opinion , was to no other end , than that the king might have no pretence whatsoever for the raising of money upon his Subjects at his owne pleasure , without their common assent in Parliament . I doe then conclude this Argument , that seeing the Common-Law for maintenance of the Kings ordinary charge , hath given him such an ample Revenue out of the interest and property of the Subject , and provided also for sodaine occasions ;

ons ; that in so doing it hath secluded and secured the rest of the Subjects estate from the Kings power and pleasure ; and consequently, that the King hath not power upon any occasion at his pleasure to charge the estate of his Subjects by Impositions, Tallages, or Taxes (for I hold them all in one degree) or any other burden whatsoever , without the Subjects free and voluntary assent , and that in Parliament : If it were otherwise , you see how it were to the utter dissolution and destruction of that politike frame & constitution of this Common-wealth , which I have opened unto you ; and of that excellent wise providence of the Common-Law , for the preserving of property , and the avoydance of oppression . These two Arguments used by me , that of *Certainty* , and this of *the provision made by the Common-Law* , are in my poor opinion , Arguments of direct prooфе , that the King cannot Impose . I will now , according to my division , urge an Argument or two of Inference and presumption ; the rather , because Arguments of this nature have been much enforced by those who have maintained the contrary opinion , (especially by Mr. Solicitor :) I call them Arguments of inference , and yet in my opinion , those which I shall urge are also of good prooфе ; such as they are , you shall judge of them . *They are drawn either from the actions or forbearances of the Kings of this Realme , or , from the actions and forbearances of the people .*

Sir Francis
Bacon.

First,

First, in the actions and forbearances of the Kings, I observe, that all the Kings of this Realm since Hen. 3. have sought and obtained an increase of Custome, more or lesse, by the name of Subsidie, of the gift of their Subjects in Parliament: Nay, some of them, and those not the weakest in Spirit, or power, but the most courageous and potent in that whole ranke, even that mighty and victorious Prince, King Ed. 3. being to undertake a just and honorable warre, than which there could not happen a better or juster occasion to have made use of his Prerogative of Imposing, did nevertheless at that time stoope so low in this point, that he did in full assembly of the three States, pray his Subjects to grant him a Reliefe in this kinde for the maintenance of his warre, and that to endure but for a short time; and further, was well content to suffer his prayer in that behalfe to be entered of Record to the memory of all posterity: And the succeeding Kings have also suffered the same to be printed, as may appeare by the printed Statutes at large, A. 14. Ed. 3. cap. 21. Is it likely, that if any or all these Kings had thought they had had in them any lawfull power by just Prerogative to have laid Impositions at their pleasure, that they would not rather have made use of that, than have taken this course by act of Parliament, so full of delay, so prejudicall to their Right, so subject to the pleasure of their people, who never undergoe Burdens but with

Arguments
drawne from
the actions of
the Kings, that
they have no
power to Im-
pose.

murmuring and much unwillingnes: Can there be any thing more hatefull to the high Spirit of a King, than to subject himselfe to the pleasure of his people, especially for matter of Religion, and that by way of Prayer, having lawfull power in his hands to relieve himselfe without beholding to them?

If perhaps the Kings themselves were ignorant of this great Prerogative, which cannot be imagined; had they not alwaies about them wise Counsellors to assist them, and such as for the procuring of favor to themselves would not have failed to have put them in minde of it? Nay, if they had known any such lawfull Prerogative, had they not been bound in conscience so to have done? What an oversight was it of King Ed. 3. and all his Counsell, so much to prejudice his right in so beneficall a Prerogative; as to suffer him upon Record, and that in Parliament, to pray for that which he might have taken out of his absolute power? Can there almost be a more direct disclaiming in the Right, (to compare great things with lesse) if the Lord by matter of Record claime any thing of his villainie, it is a disclaimer of the villenage.

The Kings of England have other noble and high Prerogatives; I will only name two of them, The making of warre and peace, and the raising and abasing of Coyne at their pleasure: Did they ever crave the assent of their Subjects in Parliament to make a warre? Their advice indeed

indeed they have sometimes sought, and their ayd for treasure to maintaine it. The Prerogative of raising and abasing the value of money hath been oftentimes put in practise by them, and sometimes strayed to such a height, that the King might well suppose the Subjects could not but be much discontent therewith: And yet never any King of this Realme did it by assent of Parliament, which perhaps some one milde King among so many would have done, and it may be, would also have prayed his Subjects to yield thereto, only to avoid the grudging of the people, if the seeking of assent in Parliament had not been thought to have been prejudicall to the absolute power of their Successors: and yet, as for some of these Kings, it may be supposed, they made little conscience to prejudice a Successor in one point, that made no scruple totally to depose a Predecessor from his Throne, and all his Regalities, and to usurp it to themselves.

And so I proceed to my next Argument of Inference drawn from the actions of our Kings. Some of the Kings of England, as namely *Ed.2.* in the *yeere of his Reigne*, and *Ed.3.* in the *1. and 24. yeere of his Reigne*, as may appeare by the Records here amongst us, were contented to accept an increase of their Custome *by way of Lounse* from the Merchants, and solemnly bind themselves to repay it againe. Would any wise man in the world, that thought he had

Edward the 2.

but a colour of Right, so much prejudice his himself, as to borrow that which he might take without leave, and binde himselfe to repay it. If a poore man perhaps through feare might be enforced so farre to yeeld to a mighty adversary, yet that a powerfull man should stoope so low to one much weaker than he; nay, that a King, in a point of such consequence, should so farre disdescend from his Greatnesse, as to borrow of his poore Subject that which without being beholding to him he might obtein as his Right; and binde himselfe to repay it againe: I say, it cannot with any reason be imagined; but withall it must be concluded, that a king that shall so doe, doth not think that he hath so much as colour of Right to impose.

I will not much preesse or enforce the actions of *Ed. 2.* who (I confess) was but a weake Prince; But as for his Sonne and successor, *Ed. 3.* there was not (as I have said) a stouter, a wiser, a more noble and couragious Prince than he, and none more carefull to preserve the Rights of his Prerogative, as may evidently appeare by all his answers in Parliament, on any complaint of the Subject. Besides, never had king of this Realme more occasion than he to straine this Prerogative of imposing to the utmost: For besides his excessive expence in the warres of France and Scotland, he had also a continual charge of many expensive children, his wife Queen *Philip* had also for her maintenance a large

large allowance out of his Revenue; but the dowry of Queen Isabell his mother (who lived till about the 27. yeere of his Reigne) was so great, as it is reported by some writers, that little more than the third part of the certaine Revenue of the kingdome was left to him: In so much, as through these occasions of extraordinary expence, and the diminution of his Revenue, he was driven to such necessity, as his Queen in the 27. yeere of his Reigne, was enforced to pawn her Crowne and Jewels to procure money for him, as may appeare by the Record of that yeere in the Office of the Clerke of the Pels. Nay, the king himselfe in these extremities, was oftentimes driven to lay his Jewels to pawn for money: And in Anno 147. did also pledge his Crown for 4000. pound, to certaine Merchants of Florence, as by the Records of that yeere, in the Office of the Lord Treasurers Remembancer in the Exchequer, is manifest. By this you may see, that this powerfull king wanted not urgent and just occasion (if any occasion may be just) to have put in practise his absolute power of Imposing; and yet, as you see, it appeares of Record, that in the midst of his great wants he tooke an increase of Custome by way of Lonne, and bound himselfe to repay it. It may be here objected, that he did lay Impositions. What Impositions they were, and how to

be compared with the Impositions now in question, I purpose to tell you, when I come to answer objections, which I have referred to the end of my speech : In the meane time I will goe on with my course, and urge one Argument more, drawne from the actions of our kings, touching the increase of Custome.

A man would thinke, that the taking of the increase of Custome by all the kings, both one and other, with the assent of their Subjects in Parliament, and sometimes by way of Prayer and Intercey, for a short time; nay, the taking of it by way of Loane, and binding themselves to repay it; and that to have been done by the most powerfull kings, in their greatest necessities, were Argument enough that they did not beleeve they might justly claime it as their right by their absolute powet.

Edward the 1. And yet is not this all? For, some of them, by name, *Edw.* did not onely take it by assent in Parliament, or by way of Lease, but (as one that buyes for his mony in the Market) did give for it a reall and valuable consideration, and that to Merchant-strangers, of whom there was more colour to demand it as a duty, than of his naturall Subjects. In prooofe of which I produce *Charta Mercatoria*, made Anno 31. Ed. 1, where by it is recited, that in lieu of certaine liberties, and immunitiess granted by the king to the Merchant-strangers, as also for the release of Prisage, they granted to the king an increase of Custome.

Custom. What were all the special libertie that were granted them, I know not, nor whether they continue; but sure I am, that by vertue of thar Grant they are at this day free of Prisage, paying onely 2^o upon a Tun of Wine, by the name of Butlerage, which they granted by the same Charter: whereas English-men pay Prisage *in specie, viz.* one Tun before the Mast, and one Tun behinde. *tot non insubigere eum blonc*

And it is very worthy the observation, how the same King, E. I. in the same yeer of his reign did command his Customers throughout England, That whereas certain English Merchants were, as he was informed, of their own accordes willing to pay him the like increase of Custome which the Merchant strangers had granted unto him, so as they might enjoy the like liberties and benefits; that nevertheless they shold not compell such English Merchants, against their wils, to pay it: the words are worth the hearing:

Cum quidam Mercatores de regno & potestate no-
stri, ut ipsi dictis libertat. (having before reci-
ted Charta Mercatoris) ut & gandere, & de pri-
sis nostris quieti esse possint; prestatones & Cu-
stumas huiusmodi, de bonis & mercandizis suis
wobis dare & solvere volunt; ut accepimus, effig-
navimus vos ad prestationes & Custumas pre-
dicas, de his quid prestatones & Custumas illas
gratianter & absque cobercione solvere voluerint,
collendum, & ad opus nostrum recipendum;
statumen quod aliquem Mercatorem dedicato Reg-

*no nos tro ad hujusmodi prestations & custumes
nobis invite solvendum nullatenus distingotis.*
What stronger inference can there almost possibly be against the Kings absolute power of Imposing, than this : that he was contented, and so specified to all his Officers of the Ports, That if the Merchants did of their own accords pay more than their ancient Customes, they should have consideration for it ; But if they themselves were not willing to pay more , then they should not be compelled thereunto.

One other observation I draw from the actions of the kings touching the increase of their custome, which is this , that those kings which did lay Impositions (which as I will shew you by and by , was very rarely) though it were never but in time of great necessity , and but to indure for a short time; yet they alwayes did it, not with the advice alone of the Merchants, as at this day , but *the Merchants did alwaies solemnly grant an increase of Custome* ; and the kings were alwayes wary , for the better justification of their actions to the people , in their Commissions for collecting of Custome , to recite not onely the great necessity which moved them to take an increase of Custome , but also *the grant of the Merchants* , as may appeare by the Records , of which we have the copies amongst us; I dare confidently say , there is not above one or two at the most that are otherwise, if the Impositions be of that nature which these

these are of which we complaine; And yet these Impositions also, by the grant of Merchants, though raised upon never so great a necessitie of State, and to indure but for a short time, were always complained of by the Commons, when they met in Parliament, as may appeare amongst other Records, by the Parliament Roll of 27. Ed.3. No. 27. where in a Petition of the Commons, exhibited to the King in Parliament, are these words, *Les Commons monstrent comment que les Marchants dyent grant per eux sans assent de Parliament, un Subsidie de XL. de Sack. de Layn, outre le droiturel male tout de demy Marke. Et prion que soit amend a rest Parliament. Car est encounter reason, que le Cominaltie de lour biens soient per Marchants charges;* Which I English thus, *The Commons shew how the Merchants have granted by themselves, without assent of Parliament, a Subsidie of 40. upon a sack of Wooll, over and above the rightfull custome of halfe a Marke, and pray that it may be redressed at this Parliament; for it is against reason that the Comminality should be charged in their goods by Merchants:* with this agreeeth the printed Statute of 36. Ed.3. cap. 11. in the Statutes at large, where you shall finde an expresse Provision against the raysing of Impositions upon Woolls, by grant of Merchants, In which Petition I doe observe, that the Parliament in those dayes did distinguish, even as we now doe, between Impositions laid by act of Parliament, and Impos-

sitions laid only by the grant of Merchants, acknowledging that Impositions laid by Parliament, are onely lawfull, and condemning all other as unlawfull, for otherwise why should they tearme the demy-Marke, which was laid by Act of Parliament. 3. Ed. I. (*Droiturel mal-estout*) a lawfull Imposition : but with relation to the unlawfulness of these Impositions granted by Merchants, which they then did complaine of ; Besides, I observe that they say, That it is against reason, that Merchants should by their grant, *without assent in Parliament*, charge the whole Commonaltie, by which it plainly appears, that they complained not so much of the excesse or greatnessse of the Impositions, as of the unlawfull manner of the raising of it by grant of merchants, *without assent in Parliament*.

Hitherto I have, according to my division, drawne Arguments from that which our Kings have done, and put in practise for the increase of their Custome.

I will now make some observations of their forbearance, to put this pretended power in practise, considering the severall occasions of the times, which I will prosecute in order.

First therefore in generall, I observe, that from the Conquest, untill the Reign of Queen Mary, being no lesse then 480. yeeres space, (whatsoever the occasions were) whatsoever the disposition of the Kings were, yet in the practise of this pretended Prerogative of Im-

Arguments drawn from the forbearance of our Kings, to lay Impositions notwithstanding their great occasions.

Imposing the Kings have been so sparing, as notwithstanding, this curious search, that hath been made (wherein I suppose nothing that might make for the clearing of the Question, hath escaped us) it cannot be found or proved by matter of Record, that six Impositions (such as we now complaine of) were laid by all those Kings (who were in number 22. And those sixe (if they were so many) though they were unlawfull, yet were they in some sort to be born withall. First, by reason they were very moderate; Secondly, that they were laid in the times of great and apparant necessitie, and that they were to endure but for a yeer or two; For none of them, except onely that upon Wine, laid 16. E. I. lasted longer. They were (I say) notwithstanding their unlawfulness) yet in these other respects, so farre to be borne withall, as if the impositions which are now laid, had been so qualified, we should I suppose, never have complained of them; and yet not one of these few impositions laid in former times, but was complained of, and upon complaint taken away, as may appear by the Records here amongst us: How much more reason is there then, that we should expect the like Justice now? considering that not one Merchandise alone, as then, but very neere all the sorts and severall kindes of Merchandises that are, are charged; that not a moderate and easy charge is laid upon them, but such, as though we should confess his Majesties

ties absolut power, to lay what he list, yet we had just cause to complain of the excessiveness of the Burden: For first, the rates of Merchandises, for the Subsidies of Poundage and Tonnage, are extreamly raysed(a thing also though lawfull, yet hath been rarely put in practise) then comes the Impost upon the back of that, and is as much as the Subsidie it selfe is; in some few Merchandises, 'tis true, the Impost is perhaps lesse then the Subsidy, but 'tis as true, that in divers others, the Impost is farre more. Besides, these Impositions were not laid in the time of warre, but even then when we were at peace with all the world, except perhaps there were some sparks of Rebellion in *Ireland*, then not fully quenched. Lastly these Impositions are not(as those in former time were) limited to endure for a yeere or two, but are to come to his Majestie, his Heires and Successors for ever, as may appeare by his Majesties Letters Patents in print, prefixed before the new book of Rates. So as if those few Impositions laid in former times, had been lawfull, yet can they not by any means be a warrant or president for our present Impositions, differing so far from them in all these points of consequence. But if even those few, so qualifid as they were, were complained of and taken away, what shall we then say of ours, so farre exceeding them in all the degrees of Irregularitie; Besides, if so few Presidents, as five or six in so many yeers space, and

and those in times of so great necessitie, without any expresse Judgment in Law; or good autherite in approbation of them, but accompanied with as many complaints against them, be argument enough to prove the lawfulness of the act, I dare undertake, that as well taxes within the land, as Impositions upon Merchandizes may be proved to be lawfull: But to alledge the acts of kings, in raysing a profit to themselves upon their Subjects, to prove thereby their right, is of all other arguments that are, the weakest, and so I leave it, and call to minde, that when I told you, it could not be proved by the Records amongst us, that from the Conquest to Queen *Maries* time, there had been any more then sixe Impositions laid; I did in that number, limit my selfe to such Impositions as those are which we now complain of, for I must confess, that in that space, many more Impositions were laid, but they were of a farre differing nature from ours, differing I say, not only in those circumstances, by which I did even now compare the Impositions of these times to those five or six of former ages, but in very essence and propertie, insomuch as they may not properly be called Impositions, and yet the frequent practise of them hath been objected and relied upon, as so many Presidents, to prove the lawfulness of the Impositions now complained of: It behoveth me therefore, that in maintenance of my assertion, that so few Im-

positions have been laid, as I have affirmed, that I open unto you the difference betweene the one and the other, which being done, your selves will easily judge that the greater part make nothing towards the defence of these present Impositions; For these Impositions which now are in question, are no other then an increase of Custome, at the Kings pleasure, and commanded by him to be taken, the passage being free and open to all men. Those other which make such a great shew in number, and are produced as so many Presidents in maintenance of these, are no other then so many Dispensations or Licences for money, to passe with Merchandizes prohibited by Act of Parliament to be exported, as will evidently appeare by comparing the times, and examining the Statutes. I will therefore in this place, as shortly as I can, runne over those Presidents that have been, or may be alledged by the contrary part, out of those Records which are here amongst us, and leave it to your judgement, whether I maintaine my assertion, or be not rather better then my word for the number.

Urged by
Flem. Clark.
Doderidge.

The first Imposition by them alledged, is that of 16. Ed. I. which as it appears by the Record, was 4. shillings upon a Tun of Wine. This indeed, for ought I know to the contrary, was a meere Imposition, such as are now in question; and yet if I did deny it, and say that it was layd by assent of Parliament, I know not how the

the contrary could be proved, for though indeed the words of the Record are (*Cum Rex precipisset, ut de singulis dolitis vini caperentur 4. solidi*) it follows not that it was laid therefore only by the kings commandment, for we see that even some Acts of Parliament, in those auncient times, though they were made by the full assent of all the three Estates, yet they have these words in their preambles, (*Rex precepit : Rex vult.*) But as for Recitals of Acts of Parliament by the King, in his Commissiions, and otherwise, it was in those times usuall to say, (*Cum super ordinaverimus*) and therefore notwithstanding the Recitall be (*Cum super Rex precipisset*) it is no cleere proof, that therefore it was done onely by the Kings Commandement. Neverthelesse I will, I say, admit this to be a meere Imposition, and to be one of the number, and indeed, as this is the first they produce, so is it their best, only this (amongst all the rest) is not limited to indure for a time certain: but give me leave (I beseech you) to open unto you, with what circumstances this Imposition was accompanied, and what followed of it, and then I will leave you to judge (who best are able) how far the present Impositions may be justified by this; The first circumstance to be observed in this Imposition, is that it was laid immediately after the wage against *Wales* was ended, and at the time, when for the selling of the Estate of *Gascoigne*, the

King

king himself was in person enforced to undertake a voyage thither, as may appeare by our Histories of those times, which also may bee collected by the very words of the record which are these, *Cum Rex ante ultimum Recessum suum ab Anglia precepisset, &c.* That as these times were troublesome, they were also very chargeable to the king, and did put him to try all meanes for the levying of money, I shall not need to urge it, it cannot be otherwise.

One other circumstance is this, that this imposition laid in this time of great necessity was not, as now, upon all Merchandizes, nor so much as in generall upon one kinde of Merchandise, comming from all the parts of the world, but onely upon such wines as were brought hither from two Towns in *Gascogne*, *Bergerac*. and *St. Emilians*, as may appear by the Records, and it is probable that these Towns were then in revolt, & that the sooner to reduce them to obedience, the King laid this burden upon their commodities, thereby to hinder the vent of them.

Another circumstance is this, that though that this Imposition were indeed laid without limitation of any time, as touching the continuance thereof, yet within six years following, *viz. 5. Decemb. a. 22.* upon complaint of the Merchants the king released two shillings of the four shillings, as may appear by the Records

16. E. 1.
22. E. 1. in
Scacario.

ords of 22 E. I. with which the Merchants not holding themselves contented, the very same yeare within eight or nine months following, *viz.* 23. *Julij* an. 22. the whole Impositi-
on was released, as may appeare by a recitall in
the accompt of one *William Randall* receiver of
the Impost money entred, *an.* 26 E. I. And
within three years after the release, *viz.*, *an.* 25.
there followed an act of Parliament against all
Impositions in generall, as when I come to
shew you what Statutes there are, in the point,
I shall I hope cleerly prove unto you; In the
meane time I will proceed to examine the
rest.

The next president urged is an imposition of
40. shillings upon a sack of wooll laid by E. I.
an. 21. For the prooфе of which, a record of
the Exchequer of that year hath been vouched.
I must confess I have not seen that Record, but
by another Record of the same Court, *an.* 26.
E. I. it is evident that the said Imposition was
not raised by the kings absolute power, but by
grant, and that also the same was in the time of
warre, and to endure but two or three yeare,
if the warre should so long continue, as will
best appear by the words of the Record. *Cum*
custum a 40° nobis in Subsidium guerra nostre
contra Regem Franciae de quolibet sacco lanae exerce-
nste regnum nostrum percipiendum per biennium
vel triennium si tantū durasset guerra illa nuper
concessi. fuit, &c.

By this you perceive, by what means, upon what occasion, and with what limitation this imposition was laid: if you will further know, what followed of it, May it please you to read the Printed Statute of *an. 21. E. I. c. 7.* where it is said that the more part of the Commonalty found themselves sore agreeved therew^xhall; And by the same Statute, not only that imposition of 40. shillings upon a sack of wooll, which was the occasion of the great grief & complaint was taken away; but upon occasion thereof, there was at the same time provision also made, against all other impositions whatsoever, as I say, I hope I shall anon cleerly prove unto you, Insomuch as this imposition of 40. shillings upon a sack of wooll, ought to be so farre from being urged as a presidient for the present imposition and consequently of the grievance of the Common wealth which followes thereupon, as that rather on the contrary part it may be thought to be the happiest accident in the consequence thereof, that ever befell the Common wealth in this kinde. For it was the occasion of the making of the first law that ever was made against impositions, and other charges and burdens of that nature to be imposed by the kings absolute power without assent of Parliament.

Vouched by *Fleming, Clark, Dodderidge, Bacon, Attorney Hobart.* And so I leave their second President, and come to the third, which in time was *31. of the same King E. I.* It is no other then that increase of

of Custome, which by the Merchant strangers was granted to king Ed. I. by that Charter now familiarly known unto us by the name of *Chartera Mercatoria*, which by all that have maintained his Majesties right to impose, hath been stood upon and urged, as an imposition by the kings absolute power; but more especially hath Master *Solicitor* been strongly inforced with all the advantage possible for the maintenance of his opinion. Neverthelesse I doubt not but I shall give it a very full answer, such as yet this objection hath not received, though divers that have spoken before, and some this day, have undertaken to cleere it; wherein I will arrogate nothing to my selfe, but leave it wholly to your censure. It hath been said by Master *Solicitor*, that though this increase of Custome may seem to some, to proceed from the grant of Merchants, yet that this grant of theirs was to noother purpose, nor had other effect, then only thereby to declare their assent; For that, that those which did grant were no Corporation or body in the estimation of Law, and so could not binde any but themselves alone, and not such as should succeed them. And that it was only the authority of the kings pleasure to accept and take this increase of Custome that gave it life at the first and strength to continue as an Imposition till this very day. For even at this day saith he, the 3. pence upon the pound created by the said Charter, is paid

by the Merchants strangers, and they likewise enjoy some privileges granted by the said Charter. And it was further by him observed; that notwithstanding all the Statutes that have been urged against impositions, yet this imposition hath continually stood and hath never been denied to be paid by any man; And that therefore it is likely that no man till now ever conceived that these Statutes were made against impositions upon Merchandizes, but were rather to be understood to extend onely to impositions within the Realme.

27 E. 3. No. 27
13 E. 3. c. 26.

To this objection, I make this Answer, that it is indeed true, that the grant of Merchants in this case, cannot binde the whole Commonwealth; as I have heretofore proved by the Petition exhibited in Parliament by the Commons 27 Ed. 3. No. 27. and by a Statute of 36 E. 3. c. 26. And therefore I cannot but confess that this increase of custome may very truely be called an imposition, For that indeed it did at first take strength, onely by the kings pleasure to accept it (as hath been said) and not by the grant of the Merchants, admitting it therefore to be a meer imposition; Let us consider with what extraordinary circumstances it is accompanied.

First (as you may perceive by the Record it self, and as it hath partly been said already, the King took it not without yeelding recompence for it; For the Merchants strangers, by submitting

mitting themselves unto this charge, obtained divers liberties and immunities from the King, by the same Charter, amongst which freedome from Prisage is one which at this day they enjoy, In which respect this imposition is in some sort tollerable, though not at all Lawfull.

Another considerable circumstance, and difference from our present Impositions is this, that it was a composition made by the King with Merchant strangers, which though it be by strictnesse of our common law, not of force to binde in perpetuite; yet how farre by the Civill Law this doth binde strangers, which are governed by these lawes, is not so easily decided, and this may be a good colour to uphold it.

These speciall reasons, though they may well serve the turne, to make an evident difference betwixt this, and our present impositions, and so consequently to avoid the conclusion drawn from the President, and may also seem colourable, and particular reasons to uphold the Imposition it self; yet is not this that which I mean to relie upon for Answer; For even this Imposition, in recompence of which the King parted with so large priviledges and benefits, and which because it concerned only merchant strangers, did neither in the burden thereof, nor in the president, so directly touch the *English*, yet in the detestation, as it seems of all imposi-

tions, of what nature or kiude soever, and upon what pretext or colour soever they were grounded, I say, even this imposition also was complained of in Parliament within few yeeres following; and upon complaint, taken away, as may appeare by the close Roll of 3. Ed. 2. Membrana 23. Where you shall finde inrolled a *Supersedas*, commanding that the new Custome, granted by the Merchant Strangers (reciting the particulars, as they are contained in *Charta Mercatoria*) shall cease at the Kings pleasure, and this is there said to be yeelded to at the request of the Commons which cannot be but in Parliament; but because the renewing of it again rested at the Kings pleasure, therefore within two yeeres after, by a publike Ordinance made by the principall Prelates, Earles and Barons, and other great men of the Kingdome, authorised by the Kings Commission, dated the 16. of May, the same third yeere of his reigne, the Charter it selfe was declared to be utterly void, For that it was hurtfull to the Commonwealth, against *Magna Charta*, and made without assent in Parliament; and not only that Charter, but all other new Customes or Impositions whatsoever, imposed since the Coronation of Ed. 1. till that time were also taken away, saving onely the old custome upon Wooli, Wooli-felts, and Leather, And further it was ordained, That if any man should presume to take any more then the auncient custom rightfully due, and

and should be thereof convict, he should answere to the partie greeved his Costs and Damages, be imprisoned according to the quanttie of his offence, and be further punished, as an offender against *Magna Charta*, according to the discretion of the Justices. *Ro. ordinatio-*
num 5. Ed. 2. in the Tower.

Though the force and authoritie of this Ordinance, may perhaps be doubted and blemished because it was made by the Barons, at the time when they had the better hand of the King, as hath been in part objected, yet you see that they deliver not their censures, without alledging also their reasons; and this their Ordinance is no more in effect, then that which was thought fit by all the Commons in the Parliament of 5. Ed. 2. before mentioned.

37. E. 3. 20.

But it hath been yet further said, that notwithstanding this Ordinance, the imposition doth nevertheless continue in force, and is at this day paid by the Merchant strangers, and that therefore in likely hood, the ordinance prevailed not against it. Tis true that at this day the Merchant stranger doth pay three pence more in the pound for Subsidie of poundage, then the English doth, and that by vertue of *Charta Mercatoria*: But let me tell you that *Charta Mercatoria* in it selfe, had not strength and vertue sufficient to subsist for so long a time: It was as I have said suspended by the king himself,

self, *an. 3.* condemned by the ordinance of *E.d. 2.*
and had at this day been of no more force, then
it was all the time of *E.d. 2.* after *3°.* that is, of
none at all; had it not been confirmed by act
of Parliament *an. 36. E.d. 3. cap.* This was one-
ly that which protected *Charta Mercatoria* a-
gainst all those Statutes made against imposi-
tions, and that hath kept it in life till this day;
And this indeed (I mean an act of Parliament)
is the only means that our Law acknowledgeth,
for the laying or establishing of impositions,
and without which they cannot long last.

You have now heard opened three of those
six presidents, which are most relied upon for
maintenance of these present impositions which
are all that have been urged, or can be found to
have been practised from the Conquest till the
reigne of *E.d. 3.* during which time there are as
you see, as many publique acts in opposition of
them, which are of so much the more force in
that they are the Legall regular Acts of great
Counells, whereas on the contrary part, those
three impositions were the acts of powerfull
Kings wills, in the times of extream necessity,
As for *E.d. 2.* his successor, there hath not been
one Imposition alledged to have been laid by
him of one kinde or other. Nay all the records
touching this businesse found in his time being
only foure make directly against them.

The first is *anno 3.* which was (as you have
heard) a release at the Kings will, upon com-
plaint

plaint of the Commons, of the Impositions
raised by *Charta Mercatoria*.

The second was the Ordinance made *an. 5.*
declaring *Charta Mercatoria*, and all other im-
positions to be void, and inflicting punishment
upon such as should demand any.

The third was, *an. 11.* which is a *Supersedeas*
to discharge certain cōmodities from yeelding an
increase of Custome granted by Merchants, by
way of loane, which in great probability the
King would never have released, but upon com-
plaint; the rather I think so, because as the Re-
cord recites, it was granted in a time of great
necessity.

The fourth is, *anno 12.* and is much of the
same nature, the recitall of which containes
some very observable things, which I will open
unto you: It shewes first in very effectuall
words the greatnesse of the Kings wants, and
the causes thereof, the words are, *Cum pro ex-
peditione guerra nostrae Scotiae, & aliis arduis
necessitatibus nobis multipliciter incumbentibus,
pro quarum exoneratione quasi infinitam pecu-
niā profundere oportebit, pecunia plurimum in-
digeamus in presenti, ac insuper, pro eo quod exci-
tus Regni & terra nostra simul cum pecunia
nobis in subventionem premissorum tam pro Cle-
rum quam pro Comunitatem Regni nostri concessa
ad sumptus predictos cum festinationem qua ex-
pediret faciend. non sufficiunt;* Here was cause,
(if any cause may possibly be just) for the King

presently to put in practise his Prerogative of Impositions, his expence by reason of a necessary Warre in Scotland was so great, as the whole Revenue of the kingdome, together with an ayd which had been lately granted him, could not with that expedition that was requisite supply his present want, doth hee for all this make use of his Prerogative of imposing? or doth hee hastily for want of advised proceedings, take some other course prejudiciall to his right? No, the record further sayes, that he enquired by all wayes and meanes how he might most commodiously and fitly levy money for these occasions. After which advised deliberation, the course at last resolved upon, was not by absolute power to lay Impositions, which of all other courses (if it had been lawfull, had been the most speedy and beneficiall) but a course more justifiable; which was, that Merchants should be called together, and that they should be intreated to lend the King upon every sack of wooll 10. shillings and upon every last of Lether 5. shillings, above the ancient custome, and that for their security of true repayment, *without fiction or delay*, which are the words of the Record, (whereby it seems that onely a pretence of a Loane and repayment had been before that time used to colour Impositions, commandment should be given to the Customers to certifie into the Exchequer, the names of every particular Merchant

chant, that should so lend unto the King, that they might accordingly receive full satisfaction. And tis worth the observing, that this Loane was for no longer time; Then from Aprill, till October following; thus much is warranted by the Record: So as you see that in all this time of this King, Ed. 2. Impositions were not only altogether forborn even in the times of his greatest necessity, but they were also condemned as unjust and utterly unlawfull.

We come now to the reigne of King Ed. 3. Ed. 3. in whose time there was no practise or meanes, that by the policy of man could be thought on to bring the people under this yoke of Impositions, without assent of Parliament, but it was by him attempted: Insomuch, as I have in my observation out of the Recordin collected no lesse then five or six severall waies aliofthem very colourable, which in his time were put in practise for the raising of impositions, and yet none of them but was refisted by Parliament and condemned.

That which was most usuall with him was that Merchantes should grant to pay him so much upon every Commodity exported or imported by way of increas the Custoimes, this seems not unreasonable, ifor that every man might grant of his own what he listed, and this also to make it more colourable was never attempted, but in the time of Edward And yet his it hath beene partly said already this was alwaies.

Impostions by
way of Grant
of Merchants.

wayes held unlawfull, as may appear by the

17 E.3. No.27.
R. o. Parl.

Record of 17 E. 3. where the Commons in Parliament say that it is a great mischiefe, and against reason, that they should be enforced to pay the deerer for Commodities, by reason of a charge upon Merchandizes, by the grant of Merchants, anno 25. Edw. 3. the which is a charge to the people, though none to the Merchant; the Commons reciting, that whereas Merchants have granted a new increase of Custome to the King, pray that Commissions to collect such new increase of Custome, by singuler grant of Merchants be not awarded, anno 36 Ed. 3. cap. 11. (Amongst the printed Statutes) Grants of Subsidies upon Woolls by Merchants without assent of Parliament are declared to be void, which act was made upon a Petition of the Commons in anno 36 Ed. 3. desiring a Law to be made to the same effect. If

36 E.3. No 26.
R. o. Parl.

impositions raised by the Grant of Merchants, (which I suppose to have been by some publike and solemne instrument, under the hands and seals of the principall Merchants of all the great Towns of England, being called together for that purpose; were not of force in this behalf) much lesse, was their bare assent without any such solemnity, which also was a course in practise in the dayes of Ed. 3. And was also used in the laying of these present impositions, which wee now complaine of: ad 11 and haemar 1. Another meanes of raising impositions used

by

by Ed. 3. was by way of dispensation for money with some Statute in force, which restrained the passage of Merchants; most of his impositions of one kinde or other, laid after 11. were of this nature, for anno 11. cap. 1. amongst the printed Statutes, you shall finde it enacted, that *no man upon paine of Death, losse of Lands, and Goods should export Wools*: imediately after the making of this Statute Impositions, by way of Dispensations for money, came to be so frequent and burdensome that the very yeere following the King being in person to undertake a Warre in *Scotland*, and for the raisng of treasure having laid heavy impositions in this kinde, which he perceived to be very burdensome to the people; he wrote to the Arch-bishop of *Canterbury* (his Letter is extant upon Record) to this effect; that whereas the people were much burdened with divers charges, tal-lages, and impositions (which he could not mention but with much grieve) but being enforced by thevitable necessity could not as yet ease the people of them, he required the Arch-bishop to exhort the people patiently and humbly to beare the burden for a while, and to excuse him towards the people, bo-ping he should ere long recompence his said people, and give them comfort in due time. His necessities were nevertheless so great, and this means of raising money was so colourable (seeing no man was compelled to pay that did not himself desire to be dispensed with, for the breach of

Impostions by
way of Dispен-
sation with a
penal Law.

Stat. 11. Ed. 3.
cap. 1.

12 E. 3. No. 22.
Ro. Aleman.

a penall Law, by which his life, goods and lands were forfeited) as he spared not to lay on load in this kinde; Insomuch as you shall finde that in *An. 13.* he took for dispensations to passe only to *Antwerp* of English-men 40. shillings upon a sack of Wooll, 40. shilllings upon 300. Wooll-fells, and 4. pound upon a Last of Leather; Of strangers 3. pound upon a Sack of Wooll, 3. pound upon 300. Wooll-fells, and 6. pound for a Last of Leather, whereas the ancient and due custome was no more then 6. shillings upon a sack of Wooll, the like upon 300. Wooll-fells, and 13. shillings 4. pence upon a Last of Leather; Immediately hereupon, even this very yeere, was this complained of in Parliament, and a Petition exhibited by the Lords and Commons, that it might be enacted, that this *Malevolts* or Imposition, because it was taken without assent of Parliament, might be taken away, and that a Law might be made, that no such charge might be laid, but by assent of Parliament: And they further prayed, that they might have a Charter under the great Seal, confirmed and enrolled in Parliament, to the same effect, which was performed the next Parliament, as may appeare by the Statutes printed, where, *An. 14. Ed. 3. cap. 21.* you shall see an act of Parliament to this effect, and that a most effectuall one. And immediately after, follows the Charter to the same effect, of both which I shall have more occasion to speak hereafter; But

*13 Ed. 3. Orig.
de Scac. Ro. 3.
&c 12.*

*13 Ed. 3. no. 5.
Ro. Parliam.*

*14. Ed 3.
cap. 21.*

But such were the Kings wants, that even in the meane time, between the petition, and the making of the act, he could not forbear to raise money by this meanes, For in An. 14, the Eleventh day of March, in the end of which moneth the next Parliament began (as may appeare by the Preamble to the Statutes of that Parliament) he tooke by way of dispensation, 40. shillings upon a sack of Wooll, when it should be safely landed at Bruxells, and 40. shillings at the port within England, which was indeed an intollerable charge : but the better to colour it, the King in his Commissions for collection thereof, pretended that the Merchantes had been humble suiters to him, that the passage for Woolls might be open till Whitson tide following, and that to obtaine the same, they had of their free wills offered to give him the said summes, as may appeare by the recitall, in the beginning of the said Record.

^{14. Ed. 3. Ro. 3.}
orig. de Scac.

In further prevention of this mischief, in an ^{Stat. 27. E. 3.}
Act of Parliament printed, made ^{cap. 2.}
An. 27. Ed. 3. cap. 2. there was a speciall provision made against all Licenses to Transport : Nevertheless as it may be collected by a Record of the same yeere, the King raised 40. shillings upon a sack of Wooll, 40. shillings upon 300. Wooll-sells, and 4. Pound upon a Last of Leather, by the same means (I meane by way of dispensation.) For though indeed it be recited to be granted by Merchants, yet was it no otherwise granted by

orig. de Scac.
27. E. 3. Ro. 7.

by them, then for Licenses to transport; For at that time the Staple of Wooll was in *England*, as may appeare by the printed Statute of 27. *Ed. 3. cap. 1. & 2.*

*27 Ed 3. cap.
1. &c. 2.*

And here I thinke it fit to make this observation in generall, that whereas in some other of the Records of *Ed. 3.* there is mention made of Impositions upon Woolls, granted by Merchants, because the passage of Woolls was in those daies so often restrained by Statute, as may appeare by very many printed Statutes of that time, it is very likely that these grants of Merchants, were also for dispensations to transport, as appears that this of 27. was, and it may well be, that some of the Statutes, being but temporary, were not committed to the Presse;

Yet you shall finde an act of Parlia. for free
passage. *An. 15. Ed. 3.*

*39. Ed. 3. Ro. 2.
Orig. Scacario.*

This kinde of Imposition, by way of dispensation, I finde not to have been at all practised from 27. till 39. where without any colouring of the matter, with pretence of the grant or guift of Merchants, or any recitall of suite made by Merchants, to have the passage open, as usually in formertimes, but plainly and aptly the King recites, *That whereas English Merchants were by Act of Parliament restrained to transport Woolls, Neverthelesse, upon advice with his Counsell, he thought fit to give leave that such as would, might transport Woolls, paying 46. shillings 8. pence upon a sacke, which the King commandeth to be levied.* This Imposition lasted a very little while, For the next Parliament following, the

Sub-

Subjects granted to the King a Subsidie, upon Woolls, Wooll-fells, and Leather, to endure for a very short time; and yet, as it appears by the words of the Record, the King doth thank his people for it, *with all his heart*: at which time, for the maintenance of his warres in Scotland, he obtaineth the continuance thereof for two yeeres, at the end of which two years, he fur-
ther obtaineth, in Parliament, a continuance of the same from Michaelmas following, for three yeeres, for the supplie of treasure for the warre.

Two yeers following, *viz.* in An. 45. the Commons ^{Num. 42. R. o.} doubt^{ing}, as it seemeth, that the King had ^{43. Ed. 3. 9 &} Parl^{am.} secretly concluded to increase (by way of Imposition) this Subsidie, which was yeelded to in Parliament, and granted for three yeeres, made a conditionall petition, that if any Impo^{10. R. o. Parl.} sition be laid upon Woolls, Wooll-fells, or Leather, more then the Subsidie granted in Parliament, that it may be taken away: the King answereth, That if any be laid since the Statute, it shall be taken away; and then follows the printed Statute, An. 45. Ed. 3. cap. 4. *That no Impositions be laid upon Woolls, wooll-fells, or Leather;* which is the first place where I finde *Impositions* named in our printed Books; I finde them first named upon my Latine Record, 12. Ed. 3. in the Kings Letter to the Archbi^{shop}: and first upon any Record in French, not printed, An. 21. Ed. 3. Num. 16. R. o. Parl^{ment}.

(58)

But to proceed: about a yeere following this Parliament of 45. (neere which time, the Subsidie granted, An. 43. for three yeeres, was expired) there was another Subsidie of Forty three shillings foure pence upon a sack of wooll, as much upon Twelve score Wooll-fells, and Five pounds upon a Last of Leather, above the ancient customes, granted in Parliament, for the maintainance of the warre in *Guyen*, to endure for two yeers; For which, the King likewise gave thanks.

45. Ed. 3. Nu.
10. Ro. Parl.

47. Ed. 3. Nu.
12. Ro. Parl.

48. E. 3. Ro. 2.
Orig. de Scac.

The next yeer following, the Subsidie granted the last Parliament, was continued from *Michaelmas*, for a yeere, without any condition, and for the next yeere, upon condition (amongst other things) That no Imposition be laid during the two yeeres, and that the monney levied, be employed upon the warres. In the next yeere following, the King took, as by the grant of Merchants, upon a sack of Wooll, of Denizens Fifty shillings, and of Strangers foure Marks, upon 240. Wooll-fells, of Denizens Fifty shillings, and of Strangers Foure Marks, and upon every Last of Leather, of Denizens Five pounds, and of Strangers Eight Marks; Though this Record pretendeth nothing but the grant of Merchants, yet it is upon the matter nooother then a dispensation for so much monney; For at this time, the passage was not open, other then to *Collice*, where the staple then was, as may appeare by the two Records of 38.

Ed.

Ed. 3. Ro. Parl. & 50. Ed. 3. Num. 34. And yet you may see how hatefull, even these Impositions, by way of Dispensation (which are farre more tollerable then our present Impositions) were in those dayes : For within two yeeres following, one *Richard Lions*, Farmer of the Customes (amongst other things laid to his charge) was accused in Parliament for setting or procuring to be set, new impositions (not shewing of what nature) without assent of Parliament, and was adjudged to forfeit his Goods and Lands ; but more particularly the Lord *Latymer*, Lord Chamberlaine of *England*, was expressly accused, that he combined with *Richard Lions* and others, who for their own profit, had procured and Counselled the King to grant many Licences for the transporting of great quantities of Wooll beyond the Seas, other then to the Scaple at *Callice*, against divers Ordinances and Commandements to the contrary, and had put upon Wools and Wool-fells new impositions ; Here you see that the device of Dispensations for money, had the name of an Imposition in those dayes, though indeed it be not in its nature a meere imposition, or at least not such a one as those are which we complain of : But such as it was, you see how from time to time it hath beene condemned, and how it is reckoned up amongst the most hainous faults of those two great offenders, who though perhaps they were condemned

so E. 3. N.
Ro. Parl.

ned also for other offences, yet the laying of these to their charge, did shew the great hate generally conceived against impositions of this kinde; I might here further adde in prooef of the invalidity of these Dispensations, that certain Merchants having obtained some of these, and having also the advantage of the Kings Proclamation to dispense with the Statute, which restrained their passage, yet they never thought themselves secure from ths punishment of the Statute, till they were provided for by Act of Parliament, as may appeare by a Statute printed, *anno 35 Ed. 3. cap. 21.* To alledge therefore any of this kind, thereby to prove the lawfulness of ours cannot but argue a weak cause.

For first (as I have said) there is farre more reason and colour for these, then for ours; for in this case no man was compelled to pay, that did it not to avoide a greater mischeife, for by paying the Imposition, he was free from a grievous punishment for breach of a penall Law, which restrained his passage; whereas in our case a charge is laid upon him for exercising his lawfull Trade, where no Statute Law, or Common Law is to the contrary, but rather both the one and the other make for him.

But it may bee here objected, that the King may Lawfully restraine, the breach of which restraint, is a contempe and against Law, and that to impose doth imply a restraint upon a penalty. Suppose it were so, yet if in case where

the

the restraint is not onely by the King, but the whole Estate assembled in Parliament, for some urgent cause it be unlawfull to give License for money (as you perceive it is) how much more is it so, where the restraint is for no other purpose then to raise an imposition as in our case; but of this more largely hereafter.

Another devise of raising impositions without assent of the Commons in Parliament, practised by Ed. 3. was *by way of Ordinance*, which indeed is in the next degree of strength unto a Statute. For it is a Constitution made by the king himselfe, and all the Prelates, Earls, and Barons, not at the Connell Table, or in the Kings Chamber; but sitting solemnly in Parliament, and hath also the like solemnity of inrollement that a Statute hath, onely it is enrolled in a Roll by it selfe, which hath the name of the Roll of the Ordinances; But the only essentiall difference between this and an Act of Parliament, is, that this hath not the assent of the Commons.

Impositions
raised by way
of Ordinance
in Parliament

Some Ordinances have had that estimation amongst us, that they have at this day; the force of Statutes as the Ordinance of Merton, made 20 Hen. 3. (which though it were no other then an Ordinance made by the King, the Prelates, Earls, and Barons, without assent of the Commons, yet hath it by concinnance of time gotten not onely the strength, but the name also of a Statute. There be some others of this

nature, and we finde it usuall, that the names of Statutes and Ordinances, have been indifferently and confusedly used, to expresse the one or the other. So as there was not any other more probable devise or invention to have brought the people under the yoake of Imposition, without their own assent, then was this, by the way of Ordinance; Nay to adde yet a further strength to this high authority of an Ordinance in Parliament, the assent also of Merchants was usually joyned therewithall, to make it have the clearer passage with the Subject; and further it was never, but in the time of warre.

7 Ed. 3. R. 9.
Origine Sac.

The first imposition of this kinde by way of Ordinance, which I finde amongst the Records was 7 E. 3. amongst the Originals of the Exchequer, where it is said by way of recitall, that the King considering how Merchants (which make great gaine by trading) ought aswell as others to affit him with treasure for his Warre, especially considering how at their intreaty he had placed the staple in England: Therefore at his Parliament held at Yorke, by the Prelates, Earls and Barons, it was ordained that the Merchants should yeeld unto the King a Subsidie upon Merchandizes: This Subsidie or rather Imposition, thus solemnly ordained, and in the times of so great necessity, was no sooner established then revoked, as may appeare by the words immediately following in the same Record

cord, whereupon the Merchants of their own accords yeelded, and freely gave ten shillings upon a sack of Wooll, as much upon three hundred Woolfels, and twenty shillings upon a last of Lether, for a short time by way of Dispensation or Licence towards the maintenance of the Warte.

The like is found, anno 20. E. 3. where the Commons complaining of an imposition of this kinde, laid by the Prelates, Earles, and Barons in Parliament, and by the agreement also of Merchants. It was not denyed unto them, but that their suit was just; onely it was answered them, that as yet it was not convenient to take it away; For that the King had taken up great summes of money of divers Merchants, for his present necessitie, to be repayed out of the said Subsidie, and therefore it could not be as yet discharged without great damage to the King and the Merchants. But the most materiall Record against Impositions by way of Ordinance, is the yeere following, where the King in excuse of impositions complained of, answereth that they were laid in times of great necessity, and by the assens of the Prelates, Earles and Barons, and other great men; and some of the Commons then present, neverthelesse his pleasure is, that such impositions not duly laid, be not drawn into consequence, but taken away 21 E.3.
No. 17.

There are some others of this kinde, but ne-

20. Ed. 3. Nu.
18. Ro. Parl.

ver.

ver any that did abide the triall, though they have allwayes beene accompanied with all such circumstances, as were most likely to give them passage without controllment, as to be laid in the time of warre, to be limited to a short time, with consent of Merchants. If the authoritie of an Ordinance in Parliament, joyned with the absence of Merchants, were in those dayes not of force sufficient to uphold Impositions, much lesse will an Order of the King and his Counsell out of Parliament, uphold them at this day, especially after so many yeeres discontinuance.

Impositions
rayed by way
of Loane by
Merchants.

Another invention to raise impositions, practised by Ed: 3. and in former times, was by way of a pretended or feined Loane from the Merchants, of so much above the old custome upon Merchandise exported or imported, which Loane was never repaid to the Merchant. That this was an old practise, may be collected by the president, 12. of Ed. 2. already cited, where the King promiseth, that *without fiction*, or delay, he would repay them their money, implying thereby, that sometimes fiction had been used, and doubtlesse that loane which was 11. Ed. 2. the very yeere before, was such a fained Loane as I speake of, for otherwise (without question) the King would not have released part of it, as may appeare by that Record that he did; For if the money be, *bona fide*, borrowed, and truly intended to be repaid, then doubtlesse

lesse the course is lawfull; if otherwise, I hold this kinde also as unlawfull as any of the rest.

Edward the Third did once or twice borrow in this kinde, as may appeare by Records already cited to another purpose, with which I will not again etrouble you.

There was yet another Device for raising of Impositions (begun indeed by *Ed. 1.*) and con- demned in the time of *Ed. 2.* but revived, and much practised by *Ed. 3.* which was also by way of grant of Merchants, for Liberties granted to them.

the same that I first obserued to have been so much practised by *Ed. 3.* but is much more colourable and tollerable. For whereas that was a grant, or rather a meere guift, without any thing granted back againe in lieu thereof; this I now speake of, is a solemne grant indeed, made by Merchants, of an increase of custome, for liberties and freedoms, and other valuable priviledges, and exemptions, granted unto them by the King: that former was, *date nihil expectantes*; this is, *date & dabitur vobis*, and indeed the recompence that the Merchants had by this Charter granted unto them, made their grant to the King lesse subject to controll, then otherwise without such recompence it would have been; I mean the grant of Merchant strangers, so often remembred amongst us, by the name of *Charta Mercatoria*, which though it were damned all the time of *Ed. 2.*

from the third yeer of his reign, yet was it revi-
ved by E.3. (*Even that very yeer, when he likewise
deposed the King his father,* and usurped to him-
selfe his Crown.) For it appeares by the Re-
cords, that he commanded the saue to be levied
the very first yeere of his Reigne. What
hath been said against this kind of Imposition,
I shall not need here againe to repeate, only let
me call to your remembrance, how this Char-
ter, as needing a better prop then his owne
strength, and Validity in Law, was in the same
Kings Reigne confirmed by Parliament, and
onely by that strength continueth in force at
this day.

You have heard five or sixe severall politique
Inventions and Devises for the easie drawing
on, and sweetning of this yoak of Impositions,
all practised by this prudent and potent King,
Ed. 3. whose times were indeed so troublesom,
and his charge every way so excessive, as it is no
marvell, that he left not any way unattempted,
to raise money, without the assent of the Com-
mons, whom he always found unwillingly and
hardly drawne to matters of charge.

One other way of Impositions he used, not
coloured or masked under any such pretence, or
politick Invention, as you have heard, but plain
and direct, only his owne expresse command-
ment to his Officers, to collect of every Mer-
chant so much for such a commoditie, exported
or imported, and to answere it into his Exche-
quer,

1.Ed. 3. Ro.
Fin.

Impositions
laid by ex-
presse and di-
rect Com-
mandment.

quer, without any recitall in his Comissions, of Grant, Assent, Guift, Loane of Merchants, Dispensation, or Ordinance in Parliament, or any other such colourable pretext whatsoever.

These indeed, and onely these are meer Impositions, and may be aptly compared with these of our times; Of this kind, amongst all the Records of *Edward the Thirds* time, I finde on-
ly two, which I will truly open unto you; The first is in the Twenty one of his Reigne, where it appears that *Lionell* afterwards *Duke of Clarence*, ^{31. Ed. 3 no 11} named upon the Record, *Lionell of Antwerp*, because I suppose, he was there borne, the Kings second sonne being then *Guardian of England*, whilst the King his father was at the siege of *Callice*, at a counsell by him held the same yeere, which I take to be no other then the Privie Counsell, assested without assent of Parliament, upon every sack of Wooll Two Shillings, upon every Tun of Wine Two Shillings, upon every Pound of Aver de poys of ^{Poundage imposed.} Merchandizes imported, Sixe pence. This Imposition was, I must confess (for ought I know to the contrary) such as our present Impositions are, I meane, in that it was imposed onely, and simply by the Kings absolute power, and may in that respect be the Fourth (of that number of Sixe) which I told you were all that could be found in any degree like to ours, ever to have been practised in this Com-

monwealth, from the Conquest, till Queene *Maries* time. But though in the authoritie of imposing, it be like, yet in circumstances very materiall, you shall finde an apparant difference between them.

First, this Imposition is very moderate in the sum, as you may perceive, for it was but Two Shillings upon a sack, whereas in 13. Ed. 3. forty Shillings upon a sack of wooll was usuall, and sometimes fifty shillings.

Secondly, it was to continue no longer then till Michaelmas following.

Thirdly, it was laid in the time of a most chargeable warre, and ordained to be employed for the maintenance of Ships of warre at Sea, for the safeguard of Merchants in their passage, of which it is apparant, there was at this instant very great necessitie; for it was (as I have said) imposed then, when King Ed. 3. lay at the siege of Callice.

Besides, such as it was, and so qualified as you perceive, it was nevertheless complained of in Parliament, by a Petition from the Commons, as may appeare be the Records of the same Parliament of 21. Ed. 3. To which Petition or complaint, this answere was given, *That all the said Impositions were already taken away, save only the Two Shillings upon a sack of Wooll, which should last no longer then Easter, and seeing the same was ordained for the safeguard of merchants, in which there had been greater sums of*

money expended by the King, then could be collected between that and Michaelmas, therefore to continue the same till Easter, he hoped it would not seem over-burdensome or grievous unto them. In the Parliament following, viz. anno 22. the Commons pray that writs may bee directed to the Customers to forbear at Easter next to take the two shillings upon a sack, according as it was granted at the last Parliament, and that it be not any longer continued by the procurement of any Merchant. The King answereth,

^{22 E. 3. N 16.}
Ro. Par.

Let it cease at Easter, as it was agreed the last Parliament.

Here you see it was absolutely taken away, and therefore though it had wanted these qualifications and circumstances which I have observed it had, yet it being a thing so publickly condemned, it ought to be of little force with you to justifie these present Impositions. But that which I observe out of this last Record, maketh me rather to incline that this Imposition was onely by way of dispensation, then that it was an absolute Imposition, such as Ours are. For to what end (I pray you) should the Commons pray that it might not be any longer continued by the procurement of any Merchant, except it were likely that Merchants for their benefit should pray the longer continuance thereof; and what benefit can any imposition whatsoever bee to a Merchant except it bee by way of Dispensation

to give him leave to trade where before such dispensation given, he stood altogether restrained. If then it be an Imposition by way of dispensation with a penall Statute of restraint, then is it no president for our present impositions. But whether or no it be a Dispensation or absolute Imposition I leave it to your judgments; you have heard my observation.

24 E. 3. N. 12.
Orig. de Scac.

Poundage im-
posed.

And so I come to the next president in the times of Ed. 3. produced for maintenance of our Impositions, which was in the 24 yeere of his Reigne, the Record of which and that which followed thereupon, I will without any inforcement at all, open unto you, and so leave it to your censures. The King reciting, that whereas the Spanyard and French had joyned in league to make Warre against him, and that for the withstanding of his said adversaries, as also for the safeguard of Merchants against Pi- rats, he had ordained that certaine ships should be set forth; and that for maintenance of the said Ships, there should be paid by Merchants two shillings for every sack of Wooll, two shillings for three hundred Woolfels, foure shillings for a last of Lether, a Scute of Gold, or foure shil. for a tunne of Wine, and six pence of the pound upon all other Merchandizes for one yeere following. He commandeth his Custo- mers to levy the same accordingly.

25 Ed. 3. No. 12
Rot Par.

The very next yeere and Parliament follow- ing, the Commons exhibite a Petition in Par- liament

liament against Impositions and other like charges, without assent of Parliament : To which answer is given that, *it is not the Kings intention they should be charged.*

I have now gone through all the materiall Records here amongst us, of the times of Ed. 3. in which, though his reign were very long, and by reason of his Warres, and other excessive charge, more occasion was given him to try the strength of this point of the Prerogative, than ever any King before or since ; though often-times, and by many politicke inventions (as you have heard) he attempted to establish this Prerogative, of laying impositions without assent in Parliament ; yet can there not be produced in all his time, any more thentwo Presidents of Impositions like to these of ours, (that is) *imposed by the Kings absolute authority*: and yet these two were also, as you perceive, qualified with such circumstances, as if ours were such, we should have held them tolerable though perhaps not lawfull, yet they, such as they were, escaped not without being complained of, and condemned also in Parliament, as you have heard.

It may perhaps be that some one or two of these Impositions which were by assent or grant of Merchants, in this time of Ed. 3. were in times when the passage was open, and not restrained by act of Parliament, and so to be compared to our impositions : but whosoever shall

by

by looking over the Statutes and Records with never so much heed consider the times of opening and shutting of the Sea by Statutes, shall finde it so intricate, as hee shall bee very hardly able directly to say, that at the time whea any of these impositions were granted, the passage was open.

If in my observation I had found any such, I should have admitted it for an absolute imposition, as I have done *Charta Mercatoria*, which was by grant of Merchants; For certainly (as I have yeelded) the grant of Merchants is in this case of no other effect, then the declaration on-ly of their assent; and the Imposition resteth meerly upon the kings authority: But I finde none such, if any such could be produced, you have heard how they have beeene from time to time controlled in Parliament.

And so I passe from E.3. to the times follow-
From the end of the Reign of E.3. till the reign
of Queen Mary, who was the eleventh Prince of
this Realme, after Ed. 3. (as Ed. 3. was the
eleventh after the Conquest) being the space
of 170. yeers or thereabouts. It hath been con-
fessed by all those that have argued in mainte-
nance of his Majesties Right to Impose, that
there hath not been found one Record that
proves any one imposition to have been laid;
there are indeed in our printed booke some
three or four Statutes during that time, in
which mention is made of Impositions, but ther-

they are (as I shall prove) Impositions of another nature then those are which we complaine of; and so make nothing at all to the proofe of his Majesties Right: or if they were such as ours are, yet are they no where found mentioned but with disgrace, and to the end to be taken away, which may be the reason, that notwithstanding the great use that might have been made of three or foure Presidents of Impositions in these times, for the patching up of a continuance of the practise, which otherwise by this long discontinuance receives a great blemish: those which argued for impositions did not take hold of these, but chose rather to confess that no Impositions at all were laid during all this time, and labored to seek out the reasons of the discontinuance.

I will briefly shew you what Statutes they are, during that time which mention impositions, the first is, *11 R. 2. cap. 9. No Imposition nor charge shall be put upon Wools, Leather, or Woolfels, other than the Custome and Subsidie granted to the King this present Parliament*, and if any be, the same shall be repealed and annulled, as it was another time ordained by Statute, saving alway to the King his ancient right. If by this saving the pretended right of imposing should be excepted (as was said in the Exchequer) the saving should then be contrary to the body of the Act, and therefore it must needs have some other interpretation, that

*11 R. 2. cap. 9.
Statutes in
which there is
mention made
of Impositions
after the end of
Edw. the thirds
raigne until
Queen Maries
Ed. 3.*

it may stand with the rest of the Act, and not condemn the Law makers of so much want of discretion: therefore doubtlesse this (saving) is no other then an exception of the ancient Right, full Customes, due upon those staple Commodities. And for my part I am of opinion that the Statute was made, not so much to take away any Imposition laid by this King &c. 2. as out of a provident and prudent care in the Law makers, proceeding from the fresh memory of the practise of Ed. 3. in this kinde; For all those that were of this Parliament, did live and were at mans age in Ed. 3. time, and could not but well remember the grievousnes of his Impositions: Besides, I observe that they desire, that no Imposition be laid by way of addition to the Subsidie, upon Wools and Lether then granted: It was never heard till of late, that an Imposition upon any Merchandise, was charged at the same time with a Subsidie, and therefore without question, this was no other then an abundant provision by them wherein they were no more carefull then any wise man would be in the like case; when they had of their own free wils given the King a liberall gift, they were carefull not to be further charged by him.

The next Statute in these times, where Impositions are found mentioned is, 23 H. 8. cap. 18. By which it appears that English Merchants being restrained from repaying to Ger-

scoigne

Seigne and Guien, to buy the Wines of that Country, they were nevertheless suffered to repaire thither paying certaine new Impositions, which were demanded of them. Upon complaint hereof, it was enacted that all English Merchants might freely passe into those parts, and buy Wines there at their pleasure without any new Imposition or charge to be put upon them; For that such Impositions were to the damage of Merchants, and to the hinderance of all the Kings people: if any were demanded by the King Officers, the officers so demanding them should forfeit the summe of 19 pound, besides treble damages to the party grieved.

That these Impositions were by way of dispensation with a Statute, which restrained the repaire of English Merchants into those parts, and not by the kings absolute power, therupon to ground an Imposition, is evident by the Statutes in Print. For from 27 Ed. 3. till this 23 H. 6. there are five, or sixe Statutes in Print to this purpose some more strict then other, which continued in force till 23 H. 6. The reason of the restraint by Ed. 3. I suppose to have been because Gascons and Guiens were then in his possession, and he was desirous his Subjects, the Merchants of those Countries should have the sole profit of their own Commodities, and that they only should import them into England, and not the Merchants of England: wheresover the cause of the restraining

27. E. 3. c. 6.

38. Ed. 3. c. 10 &

38 Ed. 3. cap.

42. E. 3. cap. 8.

43. E. 3. cap. 12.

was, it is very cleer *the restraint was by Statute*, and that this Imposition raised by way of Dispensation was condemned, which nevertheless (suppose it had not been controled) yet as I have said oftentimes, it is in nature so farre differing from ours, as the practise thereof will not so much as help to salve this long discontynuance.

1 R. 3. cap. 12.

The next mention of Impositions is found, *1 R. 3. cap. 12.* The words are, *the Subjects and Cominality of this Realme shall not from henceforth be charged by any such charge or Imposition called a Benevolence, nor by such like charge; you perceive by the words of the Statute, what Impositions are intended within that Statute.*

7 H. 7. cap. 7.

The next mention of Impositions in these times, I finde to be, *7 H. 7.* where a charge of eighteen shillings, laid upon a But of Malmesie by Parliament is called an Imposition.

12 H. 7. cap. 6.

Another mention of Impositions, I finde to be *12 H. 7. cap. 6.* In the preamble of the Statute; the words are, *That every person ought to use himselfe to his most advantage without exactacion, Fine, Imposition or contribution to be had, or taken of him, to, or by any English person, or persons.*

Though some that have argued before me against Impositions have urged this Statute, as making against our present Impositions, yet for

for my part, I am not of that opinion, but upon perusing the Statute, doe rather thinke, that it extendeth only to impositions laid by the Merchants of London, upon the Merchants of other Cities and Townes not incorporate into their Companies, as will evidently appeare by the Statute : so as notwithstanding this Statute, that which I have averred, and hath been yeelded to by the Kings Counsell, that no Imposition was laid from Ed. 3. to Queene Maries reigne, is not yet impeached.

There is yet one other Statute of later time, in which mention is made of Impositions, and that is, 14.H.8.cap. 4. The words are, *Every Subject borne in England, and sworne to be Subjects of other Princes, as long as they shall so abide Subjects to the other Princes, shal pay such Customs, Subsidies, Tolls, and other Impositions, within this realme, as Strangers doe.* I hold that this word *Impositions*, in this place is used as a generall to all the particulars before mentioned, and no otherwise, and is no more in effect then *charges*, a thing usuall in Statutes of this nature, to adde generall words for the more securitie, which I collect by the word (*other*) going next before it, For to what end should it be said, *no (other) Impositions*, if those particulars first named, were not contained within that generall word of *Impositions*. This word (*other*) is a Relative, and must needs be answered with words going before, when there are no other words following.

Besides, it is common in the Statutes and Records of Ed. 3. *No Imposition upon wools shall be laid, but in Parliament*, By which it appears, that a charge laid by Parliament, may be called an *Imposition*, which is very evident by a Statute made not above 28. yeeres before this, I meane the Statute of 7. H. 7. cap. 7. which I speake of even now, where a charge of Eighteen Shillings upon a Butt of Malmsey, laid by that A&t of Parliament, is called an *Imposition*; And as I have shewed you, the word *Imposition* hath been applyed to all these severall Inventions, used by Ed. 3. for the charging of Merchandizes,

The signification of the words *Maltolt*, and *Imposition*, or *Impos.* Nay, the word *Maltolt*, which is Englished by *Roffall, an evill Toll* (as indeed it signifies) and in that respect, is of a farre harder sensē than the word *Imposition*) is used indifferently for a charge set by Parliament, or a charge set by the Kings absolute power upon Merchandizes.

Impositio derived from the verbe *imponere*, is no other then the A&t of laying on, or imposing, and therefore in my opinion, *Impositions* are more properly by the Merchants called *Imposts* which signifieth the things imposed. But I shall not need any further to enforce this, considering it hath so liberally been confessed by the Kings Counsell, that there is no Record or Statute from Ed. 3. till Queen Maries reigne, that giveth any assurance that *impositions*, or so much as any one *Imposition* was laid, during all that space of above 170. years, only it behoves me

No Imposition laid from Ed. the Thirds time, till Q. Maries.

me for further opening the truth, to testifie, that being one of those that were by you imployed to make search in the ancient custome Books of those times, remaining in the Exchequer, together with some of the best experiented Merchants of this house, some of which had sat at the receipt of Custome, wee had many meetings, and spent many whole dayes in turning over the old Custome books, and as carefully as we could, did survey some books of every age and time; But after all our search ended, could not finde any one Imposition from the time of Ed. 3. till Queen *Maries* reigne, to have been received by any Customer or Collector. And if you please to give me leave to remember to you the passages of those times, you cannot but marvell, that none of all those Princes should so much as attempt to trie the strength of this so beneficiall a Prerogative, so much practised by Ed. 3. and when you have heard their occasions, and compared their otheractions, with their forbearance in this kinde, you will, I think, conclude, and say in your hearts, that surely none of all those Kings had so much as any imagination, that any such Prerogative belonged unto them, as to raise money at their pleasure, by laying a charge upon merchandizes, to be exported or imported without assent in Parliament.

*Richard the Second, being the Grand-childe Rich. 2.
and next Successor of Ed. 3. in whose times im-*

What great occasions all the Kings from Ed. 3. till Q. M.J. had to lay Impositions, and yet did it not.

po-

positions of all sorts did so much rage) had little leſſe occasion then his Predeceſſor had: For firſt, he had little treasure left him, and he was no ſooner in his Throne, but news was brought that the French had invaded the Realme, they had burned Rye and Hastings in Sufſex, they had taken, and poſſeſſed the Ile of Wight, they had beſieged Winchelſey: From the Northern parts, That the Scots had burned Roxborouh, and were ready to overrunne all the North parts of England. Being thus beſet with warre on all ſides, doth his Counſell (which in all like-lyhood, had moft of them been of Counſell to his Grandfather) advise him to raise money by impoſitions, as his Grandfather had done (for this course of raising money by way of Impoſitions, was yet fresh in all their memories?) they do not, but he taketh the ordinary course, by calling a Parliament, which for mainteneinance of his charge in the war, the ſecond yeer of his reign, granteth him a Fifteenth; he calleth another Parliam. and hath another Fifteenth granted, the Fourth yeere of his reigne, the warres increasing, his neceſſities were ſuch, and ſo con-ceived by the Parliament, as they granted him a moft unuſuall Taxe throughout the whole Kingdome, upon every Eccleſiaſtically person, one and other, Sixe ſhillings Eight pence, upon every other man or woman within the Realm, Four pence, which when it came to be levied, cauſed (though cauſelesly, because it was legal-

ly granted) that notorious Rebellion of which *Wat Tyler* was the Captaine. This Taxe as it was levied not without that great Rebellion, so questionlesse was it unwillingly yeelded to in Parliament; and yet because there was no other course thought lawfull for the raising of treasure upon the Subjects goods, then by their own assent in Parliament, onely that course was thought fit to be practised, which was such as ought to be obeyed.

From the 5. to the 18. yeere of his Reigne, he obtained every other yeer one aide or other in Parliament, sometimes a taxe, sometimes a Fifteenth, sometimes a Subsidie of Tonnage & Poundage: In the eighteenth yeer, he was inforced to go in person into *Ireland*, to settle the state of that Country then in Rebelion: all these troubles he had from abroade besides those famous Rebellions here at home, which afterwards cast him out of his Seat; yet did he never for all this attempt to lay impositions, though he wanted not abouit him, to put him in minde of his absolute power: For *Edward Strafford*, Bishop of Exeter, Lord Chancellor of England, in a Sermon made to the Parliament held, anno 2. 1605 our Chronicles report, did publicquely maintaint that the King was not bound by any Law; but was of himself absolute & above Law, and that to conterole any of his actions was an offence worthy of Death, at which Parliament all that were present came

armed for fear of the King; and the Parliament House it selfe was beset with 4000. Archers by his appointment. I will speak no more of him then this, though he were a King of a weak spirit, yet did he not spare to practise upon his people the most grievous things that were; Insomuch that he so farre discontented them that they deposed him by common consent in Parliament, the onely desperate example of that kinde, that our Histories doe afford, or I hope ever shall.

Hen. 4.

His successor *Henry* the fourth, in respect he held the Crown by so weak a title, had cause to give the people all the content he could possible, and yet he was so oppressed with warrs on all sides, from *France* and *Scotland*, but especially by continuall and dangerous invasions made by the *Welsh*, as without the aide of his people for the supply of his treasure; it had not been possible for him to have held his Crown on his head, and therefore he pressed his people so farre, that in a Parliament held the fifth yeere of his reigne, they yeedded to him so great and so unaccustomed a tax, as that the grantors thereof, as our Chroniclers say, tooke speciall order that no memory thereof should remaine of record onely to avoide the president; and yet the very next yeere following, his wants were againe grown so great as his Subjects being assembled in Parliament to give him further ayde, did resolve that there was no other

way

way to supply his want, then to take from the Clergie their temporall Lands and goods , and to give them all to the King, which being withstood by the Clergie , a resumption of all the guifts of *Ed. 3.* and *Ric. 2.* was propounded : at last (after they had satte a whole yeere) they gave him two Fifteenths ; at this time, most of his Counsell, and the great Officers of the Kingdome were Spirituall men ; had they not now, (if ever) a just occasion given them to have put the King in minde of his Prerogative of laying impositions, not onely to the intent to have diverted him from the harkning to that desperate motion that had been made against them to all their utter undoings , but were they not also bound in duty and conscience , in this time of so great necessarie (seeing the Parliament knew not otherwise how to supplie the Kings wants) to have advised him to have made use of his lawfull right of imposing, by which means, he might , without troubling the Parliament, quickly have raised great summes of money: certainly it was not because they were ignorant of any such practise in former times , For none of them that were then of the Counsell to *Henry* the Fourth, but they lived in *Ed. 3.* time, and most of them doubtlesse , were in *Ed. 3.* time men of age and discretion, But in all likelihood as they knew that *Edward the Third* did lay impositions, so likewise they knew that impositions had been from time to time , in those daies

condemned as unlawfull , and were become
hatefull to the people, and onely for that rea-
son , they did forbear to advise the King to
take that course, though the necessitie were ne-
ver so great.

Another Prerogative , as much concerning
the interest of the Subject , as this of Imposi-
tions, namely the abasing of Coyne, this King
made no scruple at all to put in practise, because
he held it to be lawfull.

Hen. 5.

His Sonne, and next Successor, *Hen. 5.* who
by his many victories over the *French*, and his
noble disposition and behaviour towards his
people, was so farre beloved of them, as never
was King of this Realme more, thotigh the
Kingdome were now, by one degree of dissent,
more firmly settled upon him then it was on his
Father (who usurped it) though also his ex-
pence of treasure, by reason of that great warre
in *France*, were as much, as any king's of *England*
ever were, though he had troubles also from his
Neighbours the *Scots*, and within his owne
Realme, by Rebellions : and lastly , though he
spared not for supplie of treasure, to supprese a-
bove a 100. Priories of Aliens ; yet neither
out of the strength of his love with the people,
nor in his extreame necessity, by reason of these
honorable warres in *France*, for the mainte-
nance of which , the people would willingly
have undergone any burden which he would
have laid upon them, especially after the victory

at

at Agencourt, did he ever so much as attempt the laying of Impositions.

His Successor *Hen. 6.* (though indeed of a ^{Hen. 6.} meek spirit) yet he was so followed with troubles within the Realme, and from abroad, that he was inforced to crave such an extraordinary aide of his Subjects in Parliament, as the levying thereof was the cause of that famous Rebellion of *Jack Cade* in his time. Besides, in the 18 yeer of his Reign, for the ease of his charge and supply of his wants, all Grants by him made of any Lands, Rents, Annuities, or Fees whatsoever, since the first day of his Reigne, were resumed: and this is never yeelded to, but in cases of extreme necessity. As for Impositions, notwithstanding his great wants, he thought not of them.

Edw. 4. that succeeded him, was no lesse free ^{Edw. 4.} from troubles; for he was (as you know) driven to forsake his Kingdome, and to live for a while like a banished man with the Duke of *Burgundy*; He was also inforced in the 5 yeer of his Reign to make a Resumption; and the same yeer to abase his Coyne: And *Comines* observeth of him, that he obtained a Subsidie of his Subjects in Parliament, upon condition that he should himselfe in person undertake the war in France; and, that only to get the Subsidie, he passed the Seas into France, but presently returned without doing any thing. What should such shifts as these have needed, if he might (without being

beholding to his Subjects) lawfully, and without controll have raised Treasure by laying of Impositions? It is well worth the remembiring, that which the same *Comines* (speaking in commendation of the frame of this Commonwealth) saith; *That this State is happy, in that the people cannot be compelled by the King to sustaine any publique charge, except it be by their own consent in Parliament.*

Hen. 7.

H.7. had a Subsidy of Tunnage and Poundage granted to him for his life, as may appear by the Parl. Roll i H.7. which appears no where in our printed books.

I proceed from *Ed. 4.* to *Hen. 7.* (omitting *Ed.5.* and *Ric.3.* because of the shourtneſſe of their Reignes.) *Hen. 7.* had indeed a more peaceable time than any of his Predeceſſors; and yet he was not altogether free from troubles both within the Realme, and from abroad: But his naturall inclination was rather to embrace Peace; he was ſo provident and politique in the gathering and ſtoring up of Treasure, as never any Prince of this Realme was therein to be compaſſed to him: He did himſelfe take the accounts of his Revenues, (which I have ſeen under his own hand:) He had for his Aſſitants about him, *Empſon* and *Dudley*, men learned in the Lawes, and by all probability, very canning in all the profitable points of the Prerogative; men that that intended or ſtudied little else than the advancing of their Masters profit; men even till this day infamous for their wicked counſell, in perſwading that good King to lay ſuch heavy Exactions and Burdens upon his people, as he did: If theſe men who in all likelihood ſhould have beſt knowne the

the Kings right (especially in so high a point of profit) had but had the least notice of so profitable a Prerogative as this, would they not have been at strife which of them should first have put the king in minde thereof? Or if they had held it questionable, would they not have put it to some triall? Certainly there can be no cause imagined that should make them thus to forbear, but either they were utterly ignorant of any such Prerogative, or, that knowing such a thing to be claimed by some of the ancient kings (especially by Ed. 3.) they knew likewise that it was in the same times continually complained of in Parliament, and alwayes condemned; and that there were acts of Parliament directly against it, and this is more probably to bee conceived of them being men of such searching spirits, and so well studied in point of Prerogative, then that they were ignorant of the practise of Ed. 3. considering also that they were never to those times by 120 years then wee are.

But that which most of all moves me herein is that there was in H. 7. time such an occasion offered of making use of this Prerogative, as there could not possibly happen any other that might better have justified the laying of Impositions; which was this: The Venetians, to the intent to drive our Merchants from fetching sweet wines at Candy, that they might the better employ their owne ships and Merchants, did impose upon every Butt of Malmsey brought thence by English

glish Merchants four Duccats, by which means the English wholly lost that Trade, and the Venetians made the whole profit thereof : This mischiefe was no other way better to be remedied, than by imposing the like, or a greater charge upon Merchants of Candy bringing Malmesey into England; that so they of Candy not being able to afford them better cheape than the English, the English might still fetch them from Candy as they had went to doe. I say, there could not possibly be a more justifiable occasion of laying Impositions, than this was: And did this king (so carefull in other things of preserving his Pre-rogative, and most of all in matters that concerned his profit) take hold of this occasion to lay an Imposition by his absolute power? Nay rather, though he saw it convenient, and in a manner necessary, yet he conceiveth it to be unlawfull so to doe; and therefore did it not by his absolute power, but by assent of Parliament, as may appear by the Statute of 7 Hen. 7. cap. 7. printed; where, in the preamble of the Act, you shall see the occasion of the making of the Act to be as I have opened it unto you : and you may perceive by the body of the Act, that for the counterpoying of the imposition of four Duccars laid by the Venetians upon our Merchants, there was imposed 18^s. for a But of Malmesey, upon their Merchants bringing it hither, to last as long as the imposition of four Duccars (which, as appeares by the Act, came but to 18^s. of our money) should endure.

endure. It is not probable that this king , considering his other actions , would have suffered this to have been done by Parliament , if he had thought he might have lawfully done it by his absolute power : And therfore it cannot almost be gaine-said , that in these times this pretended Prerogative of laying Impositions without assent of Parliament was held to be against Law.

Hen. 8. his sonne and successor, was so farre

Hen. 8.

*Hen. 8. had a
Subsidie of
Tunnage and
Poundage gra-
ted to him for
his life, the first
yeare of his
Reign, as ap-
pears by the
Parl. Roll.*

from the disposition of his father , in this point of thrift and providence , as there was not in the whol ranke of our kings any one like to him , for excessive prodigality ; the great riches stored up by his father , with so much care , and left unto him , hee so sodainly consumed in Triumphs , Masks , Mummeries , Banquets , pompous and braving Warres , as was that of *Turwin and Tur-*
ney , and in the satsfying of his lust , as he was out of very necessity enforced to crave most unreasonable aids of his Subjects in Parliament , such as never before had been granted , which through very dread and feare were yeelded to him ; yet not so satisfied , that no meanes for the raysing of money might beeneglected or unattempts , in the 15 yeare of his Reigne , by the councell of that proud Prelate Cardinall *Wolsey* , hee spared not to send out Commissions into every shire throughout the whole Realme , with privy instructions to the Commissioners , how they should with most advantage behave themselves , in perswading the people to contribute to the

king the sixt part of their whole estates, to bee paid presently, either in money or plate, whereupon followed extreme cursing, weeping and exclamation against the king and his councell, and the people were in point to rebell had not the king stayed the proceedings of the commissioners by his Letters. Finding that this way would not serve his turne, hee demanded a benevolence, which not answering his expectation, hee did the same yeare raise unto himselfe a great deale of treasure by abasing his gold.

Such things as these Princes never put in practise but when all other meanes faile them, and yet hee went many degrees beyond this : For, in the 27. yeer of his reigne he suppressed above 370 Religious houses, the yearly value of whose revenues I have read to be no lesse than 32000*l. per annum* in those dayes : and that of their goods (sold at very low prises) he made above 100000*l.* in present money. About 4. yeares after he dissolved all the Monasteries, Abbeies, Priories, Nunneries, and all other Religious houses of what kinde soever throughout England. By which meanes, and by the sale of their goods he gathered such a masse of treasure, as it might have been imagined that never any king of this Realme should have needed to have sought relief at his Subjects hands: Yet he himselfe, no longer than within 3. yeaeres after following, craved and obtained (as may appeare by the Statutes of that time) an executive great Ayde by Parliament,

ment, and yet the yeere following hee did also abase his coyn, more then halfe in halfe, such an abasement as never before or since was heard of, and could not but bee very grievous to the people; but because perhaps they held it lawfull so to doe, they made no publique complaint thereof; and it is worth the obseruing, That though this Prerogative of abasing Coyne be a thing which trencheth as deepe into the privat interest of the Subject as the laying of Impositions; for, by this meanes a man, that this day is worth in revenues a hundred pounds *per an.* hee shall to morrow, if the king be so pleased, be worth but fifty or forty, or lesse, in reall value; and though also the practise of this Prerogative hath not been forborne by any of the kings of this Realm, and that some of them have used it very immoderately, yet cannot therebe found any one publique complaint, that ever I have met withall, upon Record against it, as from time to time there have beene many against Impositions, which argues that the Subject did make a difference between these two Prerogatives; this, of laying Impositions; and that, of abasing coyne; thinking the one lawfull and the other not. But to conclude my obseruations upon the actions of

Hen.8. The next yeere after this uncondicioneable abasement of his money, hee craved a benevolence. The yeere following he tooke the profits of all the Channries, Colledges and free Chappells, &c. during his life, which ended the

nextyéere : Can any man imagine that during this kings Reigne it was held lawfull (or any such thing so much as dreamed of) to rayse treasure by laying Impositions ; I will enforce it no farther, but leave it to the judgement of any reasonable man that shall consider these things which I have remembred, whether or no it bee likely.

Edm. 6.

Out of the time of his Sonne and Successor *Ed. 6.* I can observe little, because of the shortnesse of his Reigne; but methinkes, if his Governors had imagined that any such Prerogative had been due unto him, they shuld not in honor have forbornde the practise thereof for the supplying of the Kings great necessities, and instead thereof have craved of the Subjects that unacustomed and unreasonable Subsidy, granted *an. 2.* of a certaine sum of money upon every sheep and every Cloth within the Realme, for 3. yeeres; which afterwards for the unreasonablenes thereof was released.

A Corelary or
connexion of
all the times
before men-
tioned.

I have now gone through in such sort as you have heard, the times of all the Kings from *Ed. 3.* till *Q. Maries Reigne* : during which time what can there be more imagined, that might possibly have happened to have awakened Impositions, if they had not been more than asleepe ? Neither the necessity of just and honorable warre, nor the subtleties and cuniositie of Peace, nor the prodigality of some of these Kings for the better satisfying of their pleasures, nor the covetousnesse of others, nor the softnesse of some of their dispositions,

ncr

nor the monage of others apt to be abused by evill Counsellors, nor the deadfull and fearefull ave in which some of them held their Subjects, nor the assurance of the peoples extraordinary affection, which might have emboldened some others; nor the evill conscience of U-surpers, nor any other motive whatsoeuer which happened during this long time, could revive them; untill Q. Mary did at last raise them out of the grave, after they had been so many yeeres dead and rotten.

The first Imposition that she layd, was that upon Cloth, continued till this day, which grew upon a speciall reason, as may appeare by the printed booke of the rates of her Customes and Subsidies; in the end whereof you shall finde a declaration expressing the losse susteined by reason of the difference between the Customes and Subsidies of Wool and cloth, by which it appeares that a sack of Wool yeilded in custome six shillings eight pence, and in Subsidie thirty three shillings foure pence; that the custom upon a short cloth was fourteene pence, and that a sack of Wool did commonly make foure short clothes, the custome of which was foure shillings eight pence; so that the custome of Wool made into cloth, was lesse then the Custome and Subsidie of so much Wool not cloathed; In every sack in short clothes thirty five shillings foure pence: which difference was reduced to an equality by rating upon every short cloth ten shillings: After this declaration made of the difference and of the rate which reduced both to an

Qu. Mary.

equality, follow these words; Which difference considered, and the great losse susteined by Us in the same, by reason that cloathing is much increased, It is thought convenient by Us, with the advice of our Councell, towards the relief of the losse, for to assesse upon the Clothes carried out, by way of Merchandise, some larger rate then heretofore hath been used, and though it were reason to appoint such a rate as might recompence the full of the losse susteined, yet upon divers considerations, at this time, Us and Our Councell moving, Wee are pleased only to assesse upon every short-cloath, by the name of custome, six shillings eight pence, &c.

I thought good to open this at large unto you that you might see upon what speciall reason of equity this Imposition was grounded, and how it differeth from ours: And it is worthy the observing, how the Queene commandeth this increase of Custome to be yeelded unto her, not as an Imposition, or by the name of Impost, but by the name of Custome, becaise it cometh in lieu of the ancient Custome upon Wooll, which is the reason that at this day it is demanded and paid by that name; whereas no other new raised duty hath that priviledge, but they are either called Subsidie of Tonnage or Poundage, if they be raised by act of Parliament; or Impost, if by the Kings absolute power.

The name of Custome was anciently given to none but to Wools, Wool-fells, and Leather; and

and upon this occasion, to Cloth also.

This Imposition, though grounded upon such equity as you have heard, yet in *Dyer*, 1 Eliz. fo. 165. a. & b. it was, as appeares by my *L. Dyer*, complained of by the Merchants of *London*, with great exclamation (which are his words) and suit to the Queen to be unburdened of it, because it was not granted in Parliament, but assented by Queen *Mary* of her absolute power: whereupon there were divers assemblies and conferences of the Justices and others, but their resolution is no where to be found, at least by Us; It is very probable that if they had given judgement for the Queen, it would not have beene kept close, but howsoever the profit was too great to be taken from the Crowne and therefore it continues till this day.

Howsoever the reason in equity in the laying this Imposition upon Cloth may seeme to bee sound unto some men, and so to allow of this Imposition as differing from ours, yet for my part, I hold it not so, when I consider what course was taken by Ed. 3. upon the same occasion, an. 11. E. 3. c. 1. & 2. It was enacted, that no wooll should be caried out of *England*, but by the Kings licence, and that no man shold weare Cloth, other than such as shold be made in *England*: this Law tooke such effect, as within ten yeeres the greatest part of the Wool in *England* was made into Cloth; and it became to be transported in such abundance, by reason that there was no Cus-

*Plowdens argu-
ment against
it, in M. Tate's
hand.*

stome at all due upon Cloth, and the Custome and Subsidie upon Wools was very high, that in the 21 yeere, the King finding his Custome of Wools so much decreased, doth seeke to remedy it, not by imposing a new charge upon Cloth by his absolute power, as Qu. Mary did, but did it by assent of his Subjects in full Parliament, as I collect partly by my L. Dyer in the place last mentioned, but more fully by a recitall in a Record amongst us, of 24. E 3. 20. 13. orig de Scacc. to this effect: *That whereas the Customes and Subsidies due and granted upon Wools are much decreased, because a great part of the Wooll of England is made into Cloth, for which no Custome is due; and whereas in consideration thereof, at our Council held the 21 yeere of our Reigne, by the common assent of the Prelates, Earles and Barons, and others, it was ordeneed and accorded, that 14d. by Denizens, and 20d. by Strangers should be paid for every cloth of Aylse, &c. made of English wooll, and transported; upon paine of forfeiture of the Clothes: And so followeth an authority given to collect the same.*

The next Imposition laid by Q. Mary, was forty shillings upon a Tun of French wines, imposed in the 5. yeere of her Reigne: at which time there was first a Proclamation made, that no wines at all should be brought from France, being then in enmity with England, upon paine of forfeiture of the Wines; (which, by the way, is a strange clause in a proclamation.) Immediately after this restraint there was an order made by the

Qu. and her privy Counsell, that such as would
 might bring in French wines, notwithstanding
 the Proclamation, paying forty shillings upon
 every Tun by the name of Impost, as doth ap-
 peare by Record in the Rolls of Easter Term,
 1 Eliz. in the office of the K. Remembrancer of
 the Exchequer, in the case of one *Germane Ciol*, <sup>German Ciol's
case.</sup>
 against whom an Information was exhibited for
 not paying the said Imposition: Whereunto, tak-
 ing it by way of Traverse, that there is any Law
 of the Land by which he may be charged with
 Impost, he pleads a licence made unto him, *an. 1.
 & 2. Ph. & Mar.* to import a certaine number of
 Tunnes of Wine within a certain time, any re-
 straint then made, or afterwardsto be made to
 the contrary, notwithstanding; Provided al-
 ways, that the Customes, Subsidie, and other
 duties due and accustomed to be paid to the King
 and Queen, were duly satisfied; He shewes, that
 for all Wines brought in by him during the life
 of Queen Mary, he paid the Subsidie of Tonnage,
 viz. three shillings for every Tun, which was all
 that was due and accustomed to be paid: Upon
 this plea a demurrer was joyned, and judgement
 given thereupon against the Queen: This Judge-
 ment hath been enforced in the maintenance of
 Impositions: Whether or no it make not rather
 against them, I leave to your censures.

Neere about the same time there were Impos-
 sions laid also by Queen Mary upon all French
 commodities whatsoever to be imported, as may

appear by the Port-booke of those times in the Exchequer; which Impositions were received to the use of Queene Eliz. in the beginning of the 1st yeere of her Reign, but cre the year ended they were all taken away, as may appear by the same Port-booke; which in my opinion is a great argument that they were not then held lawfull: For, Princes doe not so easily give over their hold in matters of profit, if they be any way able to maintain it. What hath hitherto upheld the Imposition upon Wines, I know not, except it be the great profit that comes by it to the Crown; and because there was never any late Judgement given directly against Impositions.

Admitting the
king had po-
wer by the co-
mon-Lawe to
lay Imposi-
tions, yet hee is
bartered by Sta-
tutes.

You have hitherto heard what reason and direct prooфе I have used, to maintaine, that by the Common Law the King cannot at his will increase his Custome by way of Imposition: You have, secondly, heard what the practise of former ages hath been in this kinde, till this day; from which I have also drawn reasons of Inference, that prove the Common-Law so to be. But now, admitting that by the Common-Law it had been cleare and without question, that the King might at his will have laid Impositions and that also the same could have been clearly proved by the practise of the ancient Kings, yet I affirme, that so stands the Law of England at this day (by reason of Statutes directly in the point) as the Kings power, if ever he had any to impose, is not onely limited, but utterly taken away, as I hope

hope I shall be able evidently to prove, notwithstanding any objection that hath been made against the interpretation of the Statutes to this sense.

The first Statute is in *Magna Charta*, cap. 30. *Magna Charta* The words are; *All Merchants, if they were not o-* cap. 30. Enforced, and the objections made *penly prohibited before, shall have their safe and sure conductes, to enter and depart, to goe and tarrie in the Realme as well by Land as by water, to buy and sell without any evill tolls, by the old and rightfull Customs (except in the time of Warre.) And if they be of the Land making warre against us, and be found in our Realme at the beginning of the warre, they shall be attacheed without harme of body, or goods, untill it be knowne to us, or our Justices, how our Merchants being treated there in the Land making war against us, &c.*

The Statute of which this is a branch, is the most ancient Statute-Law we have, wonne and sealed with the blood of our Ancestors; so reverenced in former times, that it hath been by Parliament provided, that Transcripts thereof should be sent to all the Cathedrall Churches of England, thereto remaine; that it should be twice every yeere publikely read before the people; that likewise twice every yeere there should be excommunication solemnly denounced to the breakers thereof; that all Statutes and all Judgements given against it shal be held as void; that it should be received and allowed as the Common-Law, ^{25 E.1 cap. 1.} ^{2.3.4.} by all such as have the administration of Justice; and it hath been no lesse than 29 times solemnly

confirmed in Parliament : I will therefore with so much the more care endeavor to free this Law from all the objections that have been made against it.

The first objection, that it extendeth only to Merchant-strangers, answered.

The first objection doth tend to the diminishing of the extent of this Statute , as touching the persons whom it may concerne ; for it hath been collected out of the latter words of the Statute, that it should extend onely to Merchants-Aliens, and not to Denizens.

First , it is improbable that the makers of the Law should be more carefull to provide for the indemnity of Merchant-strangers than of English ; except perhaps they might imagine that English Merchants were already sufficiently provided for by the Common-Law : If that were their reason (as there could be no other that I can imagine) it doth as much maintaine my opinion, as if they had been conteined within the Statute.

Again, the words are generall: All Merchants; and, *Qui omnes dixerit, nullos excipit.*

Besides, the Statute is a beneficall Law ; in which case particular and speciall words doe alwayes admit a generall extent: And therefore, to restraine generall words, as the Objectors would, is against all reason, and rule of Law. As for the latter words , 'tis true , they doe indeed extend onely to Merchant-strangers; but the sense of the first sentence is perfect without this : and as long as no absurdity nor contradiction doth follow by interpreting the first words to extend to all Mer-

Mer-

Merchants in generall, and the latter onely to Merchant-strangers, the most ample and beneficiall construction is ever the best, as in all other Statutes of this nature.

But this objection is, in my opinion, clearly removed by 2. Statutes made by Ed. 3. in declaration of this very clause: The first is, 2 Ed. 3. c. 8. the words are, *All merchants, Strangers and Privies may goe and come with their merchandizes into England, after the tenure of the Great Charter.* I take it, that *Privies* in this place, being the very word that is found in the Originall, which is in French, ought to be understood *Denizens*; for, otherwise I suppose it would have been joyned to the word [*Strangers*] by a conjunction disjunctive, which is usuall where the words are of one sense; and not by a copulative, as here it is. Besides, I take the word [*Privy*] to be derived from the Latine, *Privatus*, which signifieth a particular property; as *res privata*, a mans owne private estate: so, *mercatores privati*, our own Merchants. That Merchant-strangers should be first named, is common in Statutes and Records.

The next Statute explaining this of *magna Charta*, is, 14 Ed. 3. c. 2. The words are, *Whereas it is contained in the Great Charter, that all Merchants shall have safe conduct, &c. We grant that all Merchants, Denizens and Forreins, may freely passe, &c.* which I take to be no other than a mere declaration of *Magna Charta*.

The second Objection made against this

The second
Objection.
That *Magna
Charta cap 30.*
was made only
against Taxes
within the
Land, an-
swered.

branch of *Magna Charta*, is, That the meaning thereof was to secure the Merchants, not from a new increase of Custome to be imposed by the King , to be paid at their entrance or going out of the Ports , such as our Impositions are ; but from certaine petty exactions, as Tolls and such like, which were then usually demanded of them within the Land, by the Townes through which they were to passe and where they sold their Merchandize ; for the farther remedy of which there were afterwards divers Statutes made which doe evidently manifest that such was the mischiefe , and they doe the rather make this collection because of the words , *buy and sell without evill tolls* ; For, say they, Impositions are not paid upon the buying and selling of Merchandise , but when they are to ship or unship: they take hold of the word Toll , which properly is an exaction for passage within the land, or for sale in markets or faires. These objections, notwithstanding I hold it somewhat cleere that the meaning of this Statute was principally to secnre Merchants touching Impositions. My first argument is drawn *ab Authoritate*, from the authority of the wisest and most sage men in greatest places and offices within this kingdom, in the times wherein they lived, and who also could so much the better judge of the true meaneng of this Statute in that they lived so neere the time of the making thereof; even in the beginning of the reigne of the

the next King (save one) to him that made this Statute : I meane those who made the Ordinance in 5. Ed. 2. heretofore divers times mentioned by me, who in alledging their reason against *Charta Mercatoria*, doe amongst other things say that the same was made against *Magna Charta*; What was the cause of the grieve conceived against *Charta Mercatoria*, other then the Impositions by colour thereof, laid upon forraine commodities ; It appeares by the Ordinance, that was the onely cause : if then *Charta Mercatoria* were by them adjudged to be against *Magna Charta*, only because by colour thereof, new Impositions were raised, without assent of Parliament , it is evident, that they interpreted the Statute of *Magna Charta* to be made against impositions; if they had thought it to have extended onely to petty tolls and exactions within the land, as is objected, then could it not have extended to *Charta Mercatoria*. As for the words *Buy* and *Sell*, without any manner of evill Toll ; I denie not but the words may perhaps have that sensse , which hath been collected out of them, viz. that in buying and selling, they should be free also from unjust exactions within the land. But I say further, that these words, without any manner of Evill Toll, by the old and rightfull Customes, do extend not onely to the next precedent words (*Buy* and *Sell*) but also to the former words, *Enter* and *returne*, and more principally to them then to any

any other; For to have provided that they should be free from those petty exactions of tolls in Markets, and for passing through Cities and Townes, and to leave them subject to Impositions, to be laid on at the Kings pleasure, had been but a slender securitie. This exposition of mine is confirmed by a Record here amongst us, of 16. Hen. 3. no longer then seven yeers after the making of this Statute. By which it appeares, that the King commanded his Officers, at the Ports, to signify to all Merchants, that they might with safetie enter into his kingdom, paying the rightfull and ancient customes, *Nec timeant fibi de Male tollis quas faciet Rex.*

Derivation of the word *Toll*. As touching the word *Toll*, which they say is to be understood of Toles for passages, and for buying and selling in Faires and Markets, it behoves me to say something of the derivation thereof, the rather because it is very often used in our ancient Statutes and Records in the same sense, as it is in this place; and by the derivation thereof the naturall and true meaning of the word shall be best understood; I hold it therefore to be derived from the Latine word *Teonium*, which signifies custome, by cutting off the latter part of the word, and retaining onely the first part *Teol*, by contraction *Toll*; of which manner of derivation, there are infinite examples in our language, the Latine *Teonium* (as saith *Calvin* in his *Lexicon Juris Civilis*) is derived from the Greek *Telos*, which sig

signifies aswell Custom as it doth *Finis*: Hence it is that the Customers are called in Latine *Tolnaris*.

Thus you see that the genuine, and primitive signification of our word *Toll*, is no other then Custome upon Merchandizes: from the word *Toll* are come those two barbarous Latine words found in our Statutes, and Records, *Tolatum*, which is the word used in the Record of 16 H. 6. but even now vouched by me; and *Tolnetum*, the Originall word in the Statute now in question, which I must confess is also in our Law Latine used by us for *Toll* in the Market, and *Toll* for passage, as may appear by the Register, and the Book of entries. But in this place, *Malum tolnetum* properly signifies not a Toll in the common sence, but an unlawfull charge laid by the King upon Merchandizes, as an increase of Custome, according to the Primitive signification, which is evidently proved in that it is here opposed to old and rightfull Customes; *sine omnibus malis Tolnetis per certas & antiquas consuetudines*; wherfore it ought so to have been translated, for so it signifies, without Impositions, by the old and rightfull Custome: This exposition and translation is further warranted by the use of the word *Maletolls*, so often found in our ancient Statutes & Records, which without scruple is derived from the Latine, *Malum Tolnetum*, the very word of our Statute; I finde it diversly

written, *Maletout*, *Maletots*, *Maletot*, and sometimes *Maletent*, but I never finde it any where used in any other sence then for an Imposition by way of increase of Custome upon Merchandizes: Sometimes indeed but that very rarely, It is taken in the best sence for lawfull and rightfull Custome , as the word Imposition sometimes is, but then commonly it is accompanied with another word to free it from the worst sence , as *Draiturel Maletout*, &c. That *malis Tolnetis* in this place ought to be translated Impositions, may be farther proved by that which I finde in a writer of the french History, one *Jean Serres*, who saies, That in the time of *Philip le Beau* king of France, which was about the time of *Ed. 3.* king of England, there were rebellions in France because of Impositions laid by the K. which in those days, they did, saith he, call *Maletouts*, the very word then anciently used in Engl. for Impositions, as may plentifully appeare by the Statutes and Records of *H. 3.* *Ed. 1.* *Ed. 2.* & *Ed. 3.* for the word *Imposition* was not used in any French Record, Statute or other, for ought I have seene, till *Ed. 3.* I finde it once used in Latine , 12. *Ed. 3.* in the Letter which King *Edward the Third* writ to the Archbishop , to excuse him to the people, for laying Impositions, and as all that Letter throughout, is of an eloquent stile, so as it seemeth he was carefull to avoid also that barbarous word, *Molum tolnetum*, though common and famil-

The word
Imposition.

familiar, and in stead thereof, to use the pure Latine word *Impositio*. *Sylvius* writing upon *Tullies Oration for Marcus Fonteius*, where these words are used by *Tully*, *Imposuit vectigal*, (saith) *Ita usitatum vulgo est ut vectigalia nova appellant Impositiones.* The word *Vectigal*, in this place, though in a generall sence it may be applyed to any revenew whatsoever, yet with the Civill Lawyers, it is by way of Excellence, commonly used for Custom, as may appear by *Calvin* in his *Lexicon*, *Vectigal quod Fisco vel Reipubl. portorii nomine penduntur, id est, pro mercibus que invehuntur vel evehuntur*, Sometimes they use to joyne with it for a more cleere distinction, the word *Portorium*, as a man would say, the revenue of the Ports, agreeable with which, upon some Records of *Henry the Thirds* time, I have found it to be called, *Extensus Portuum*. By this it is evident, that *Impositio* in pure Latine, and *Imposition* in English, is the same with *Maletons* in French, and *Malum tolnetum* in our Law Latine; and they doe all signify a new increase of Custome, and not any thing else; Wherefore I conclude, that these words, *sine malis Tolnetis*, in our present Statute, are naturally and properly to be expounded, and understood of *Impositions*, and so ought to have been translated, and not as they are; and although the word *Imposition* it self, as also the word *Maletons*, and *Malum tolnetum* maybe (as I have confessed) taken as well for a

new increase of Custome, by a lawfull means
(viz.) by assent in Parliament: as for an increase
of Custome by the Kings absolute power,
which is unlawfull, yet by the words that im-
mediately follow, it is evident that this Statute
doth onely intend unlawfull impositions, that
is, impositions laid by the Kings absolute po-
wer, without assent in Parliament, otherwise
would they not have been opposed to due and
rightfull customes, as by the words of the Sta-
tute they are.

The word Cu-
stom, *Custuma*,
and *Consuetudo*
expounded.

But because there hath been some exception
also taken to the exposition of the word *Custom*
in that sence in which I take it (that is) for
custome upon Merchandise, for that the word
in the Originall is *Consuetudo*, which signifies
an usage, and not *Custuma*, which is the Latine
word we now use for Custome upon Merchan-
dize; it behoves me therfore to say something
touching these words, *Consuetudo*, and *Custuma*,
for the clearing of this scruple. This word
Consuetudo in his first and proper signification,
doth, I confess, signifie an usage, or practise of
a thing time out of minde, but it is evident by
the Records in the time of H. 3. and Ed. 1. this
word in a more speciall manner, was applied to
all, or most of the duties belonging to the
Crowne, by reason of Trade, As *Consuetudo aquæ Thamesis*, *Consuetudo piscis venientis ad vicum Pontis London*, *Consuetudo quæ vocatur Scovagimus*, *Consuetudo quæ vocatur Gange*, But
yet

yet more specially it was applyed to that dutie, which we following the same rule, because of the greatnessse of the Revenue, doe likewise *per Excellentiam*, call Custom; This may appeare by the Pipe Roll of 52. Hen. 3. this title *Consuetudo Mercandizorum*, and by divers other Records of Hen. 3. times, the Rolls and Records of the beginning of Ed. I, doe likewise prove the same very evidently, Insomuch, that not onely that which in this kinde belongs to the King by the Common Law, and by ancient prescription, was called *Consuetudo*; but in later time, if any increase were of that dutie, though it came not by prescription, but by grant in Parliament, or otherwise, yet it still retained the name *Consuetudo*, which by continuance of time, came to be the proper name to that kinde of dutie howsoever it began; And therefore in 3. Ed. I. you shall finde that after the old custome of Woolls was increased to a demy-Marke by A&C of Parliament, yet the word *consuetudo* was nevertheless still retained, but with an addition, For it was then called *nova consuetudo*. Nay, though the increase were by the Kings absolute authortie, and upon the matter, a meere Imposition, Yet the King in his Commission did always call it *consuetudo*, as in 16. Ed. I: the Imposition of Foure Shillings upon a Tun of Wine, is in the Kings Commission to collect it, called *consuetudo*. Nevertheless, I assure my self, the people called it by some worse name, as *Maleolt* or the like.

The severall applications of this word *Consuetudo* to all duties whatsoever belonging to the Crowne by reason of Trade, is the reason as I conceive that the word is used in the plurall number in the Statute of *Magna Charta*, *per antiquas & certas consuetudines*, that so they might bee secure against all unjust exactions upon Merchandizes whatsoever; but as I have said, the principall scope was to provide against Impositions, and by reason also that the word *Consuetudo* was taken as well for Impositions as for rightfull Customes, therefore to make all sure, they insert the words *antiquas & rectas*. This word *Consuetudo* in this sense continued till about the twentieth yeere of Ed. I. after which time I cannot call to minde that I have seene it upon any Record: In stead and place thereof came in the word *Custuma*, which I find first in *Charta Mercatoria an. 31. Ed. I.* where the increase of Custome by the grant of Merchant-strangers is called *parva custuma*, & that which before was called *nova Consuetudo* doth now begin to lose that name, and to bee called *magna Custuma*, which termes of *magna Custuma*, intending thereby that increase made by Parliament, *anne 3. Ed. I.* upon the three staple commodities, Wools, Wooll-fells, and Lether: And *parva Custuma*, intending thereby the increase granted by the Merchants-strangers, *an. 31 Ed. I.* are the termes used at this day by the Customers, and by which they distinguish their

their entries. This word *Custome* I finde to have been also promiscuously used by E.1. E.2. and E.3. in their Commissions, and applyed as well to increase of Custome by way of Imposition, or by acts of Parliament of those times, as to ancient custome upon the Staple commodities; but regularly none ought to be called *Custome* but that which is due upon the Staple commodities, and so is it used at this day, except only cloath; for, if it bee laid by act of Parliament, it is called a *Subsidie*; if without assent of Parliament *Impost*. You see in what sense the words *malum Tolnetum*, and the word *Consuetudo* have been used in former times, and are thereby able to judge how they ought to be understood in this present Statute which, as I have said, ought to have the most benign interpretation that the words may beare.

But it hath beene likewise objected that in this Statute there is a speciall clause of exception which leaveth the king at his liberty to lay what impositions he pleaseth, this Statute notwithstanding, and that is the words in the beginning of the Statute. All Merchants (*if they were not openly prohibited before*) shall have their passage, &c. which implies, say they, that if they be prohibited (which rests wholly in the kings power) then they are not to have benefit of this Stat. touching the freedome from impositions; and they say farther, that the very laying of impositions doth imply a restraint *sub modo*.

Though

The third objection against
Magna Charta,
cap. 30. that by
the Exception
the Kings pre-
rogative to lay
Impositions is
salved, answe-
red.

Though I purpose to speake more fully in answere of this objection when I come to shew you the weaknesse of the reasons alledged for Impositions, yet I cannot forbeare in this place to speake a word or two in answere thereof, having the Statute now before us : *Except they be prohibited they shall have free passage* (saith the Statute) *without paying Evill-toll*; This doth imply, say they, that if they be prohibited they may be compelled to pay Impositions; but that cannot be necessarily concluded; it implies indeede somewhat strongly, that they may bee prohibited. The Statute of 1 R.2. cap.12. inhibiteth the warden of the Fleete to deliver any prisoner out of execution, unlesse it bee by writ or other commandment of the king. It may be as strongly implied out of this Statute that the king may, by his commandment without writ, deliver a prisoner out of execution; but the contrary hath alwaies been held. The same objection is made, and the same answere may be given to another exception in the latter end of this branch, *Except in the time of war.*

The second
Statute against
Impositions,
the Statute *de*
Tallagio non co-
cedendo, ex.
pounded and
cleared.

I come to the second Statute against Impositions, which is the Statute *de Tallagio non concedendo*, touching the time of the making of which there is great variety of opinion; for it is not, for ought I could ever learne, found anywhere upon Record; Justice *Rastall* accounts it to have beeene made 51 of H.3. and with him agrees an old manuscript which I have seen: It may

4 &c 5 P. & M.
fo. 162. b. Dyer.

may well bee, for in one of the Statutes you shall finde a pardon to *Humphrey Earle of Bohun*
Earle of Hertford and Essex, Constable of Eng-
land, and to Roger Bygott Earle of Norfolke and
Suffolk marshall of England, who both lived in
 that time. *Tho. of Walsingham* in his history of
 England, saith it was made in the 25 yeere of
Ed. I. hee reciteth the Statute *de verbo in ver-*
bum as it is in our printed booke, otherwise I
 should have thought he had meant another Sta-
 tute against Impositions made indeede 25 *Ed. I*
 and found upon the Records of that yeere, in
 our printed Statutes at large, it is placed last of
 all the Statutes of *E. I.* Though there be some
 disagreement about the time of the making of
 this Statute, yet they all agree the occasion to
 be the laying of a great imposition upon Wool,
 the words of *Tho. Walsingham*, *Auxit Rex tribu-*
tum Lanæ ad 40°. cum prius ultra dimidiam
merciam non daretur tota autem communitas sentit
se gravatam de vectigali Lanæ enim Anglie fere
extendit ad medietatem valoris terre & vectigal
ad quintam partem terre. The Custoome of
 Wools as you perceive was in those dayes e-
 stemed to bee the fift part of the value of the
 wholland; it followeth, in him, that upon com-
 plaint the Subject at last obtineid the Statute I
 now speake of, the words of which are, *No Tal-*
lage or Ayde shall bee rayzed or set by vs or our
Heires in Our Realme, without the assent and good
will of Arch-bishops, Earles, Barons, Knights, Bur-
gesses,

gesses and other Freemen of the Land, after these generall words, by way of provision against all manner of burthens whatsoever to bee laid in time to come, without assent of Parliament, followeth in the next branch, save one especiall provision for the taking away of the imposition then in demand upon Wools, which latter clause, as it doth cleerely shew the cause of their present griefe to bee the same which our Chronicles say it was, so doth it likewise make it evident what it was which they sought to be secured of for the times to come ; neither are the words themselves so obscure, by reason of the generality of them, but that they also without knowing the occasion of the making of the law doe directly point at Impositions ; for, though indeede the word *Tallage* be (as I conceive) to bee understood only of charges within the Land, yet the word *Ayde* extendeth to all charges of what nature soever ; nay, that even Impositions themselves have beeene called *Aydes* or *Subsidies* (which is all one) is evident by almost all the Records of the Exchequer here amongst us, especially by those of Ed. 3. time ; in which, wheresoever you finde any mention made by the King, in his Commissions, of an imposition raised by him, hee ever calls it *Subsidium* or *Anctilium* ; So likewise in the printed Statute of 36 Ed. 3. cap. 11. you shall finde that the Imposition by grant of Merchants there mentioned is called a *Subsidie or Ayde* : This exposition

Tallage.

Aydes.

Subsidies.

position of the word *Ayde*, concurring with the occasion of the making of the Statute, doth in my opinion strongly enforce this Statute against Impositions; and 'tis to bee observed that in this Stat. there is *no saving or exception of the kings antient Right*, which (as our Chronicles say) was a point principally insisted upon at the making of this Law, earnestly pressed by the Subject to bee without that clause, and for a long while stood upon by the king, but at last yeelded unto in such sort as you have heard.

The next Statute against Impositions is 25 Ed. I. cap. 7. the words are, *Forsasmuch as the more part of the Cominalty hath found themselves sore aggrieved with the Male-salt of Woole, viz. a toll of 40^s for every sack of Woole, and have made petition to bee released of the same, Wee at their requests have cheerfully released it, and have granted for Us and our Heires, that Wee shall take no such, things without their common assent and good will, saving to Us and our Heires the custome of Woole, Skins and Leather granted before by the Cominalty aforesaid.* In might, in enforcing this Statute, rely upon a rule of Law for the exposition of Statutes of this nature, *Omnis Impositio est odiosa, ideo stricta contra Impositiones, & large ad favorum gravatorum interpretanda est lex contra Impositiones data*, but there shall not need any such favorable construction; for the words are in themselves very cleere. The Law consisteth of three parts; the first is the kings grant of a

The third Sta-
tute against
Impositions,
25 Ed. I. cap. 7.
cleared from
objections.

petition made by the Commons, for the releas-
sing of an Imposition of 40^s upon a sack of
Wool, then in demand; when the present grief
was ended, the next care was to prevent the
like mischiefe in all times to come; It therfore
followes, *And Wee have granted for Us and Our
Heires that Wee shall take no such thing without
their common assent*, which is the second part of
thelaw; The saving in the end is the third part.

Against this generall provision, two objec-
tions have beeene made. First, that the words
No such things are to be understood only of the
burthenesomnesse and excesse of Impositions,
and not otherwise. *No such things* (that is, say
they) *No such grievous Impositions* as this pre-
sent Imposition is. It had beeene a poore secu-
rity for times to come, to have left it to inter-
pretation, whether or no, Impositions which
might happen to be laid in after ages be as grie-
vous as the Imposition complained of in this
time? by comparing one with the other;
'tis so uncertain a computation, as no man
(when hee thinks throughly of it) can imagine
that men, worthy to sit at the making of Laws,
should suffer such a thing to passe them. Who
can certainly say whether our Impositions bee
more or lesse grievous then the rate of 40^s upon
a sack of Wool: Beside, how easily had this
Lawe beeene to have beeene deluded by abating
only 1^d, or but 1^d in the next Imposition; for,
if it be but a penny lesse, it is *No such Imposi-*
on,

on, for the burden; Therefore it must needs bee expounded of the quality and very nature of the thing complained of, and not of the quantity. *No such thing* (that is) *No such thing as this is* (that is to say) *an Imposition*: But that which will cleare this objection is a Proclamati-
on made the very next yeer after the making of this Act, in which the king reciting this Act, in stead of these words, *Wee will take No such thing*, useth these words *Nullam aliam Custo-
mam sine communī consensu Capiemus*, not on-
ly *No such*, but *no other*: By which you may see
that the words were then interpreted in that
sense in which I doe now interpret them.

But admitting, say they, that it bee so to bee expounded that the king will lay *No other Imposi-
tion without assent in Parliament*, that is to be understood, say they, *No other Imposition upon
Wools*, and not otherwise, which is their second
objection. It were a very strict construction
for a Statute of so beneficiall an intent as this is
so to restraine it; if there were no other words
in the Statute that did enlarge the exposition,
But by the words following it is most evident
that the scope of this Law is more liberall then
so, and that the kings intent was for ever to se-
cure his Subjects against all charges of this na-
ture, I meane *Impositions*, not upon Wools
only but upon any other Merchandise whatso-
ever, which I collect from laying all the parts of
the Law together.

<sup>26 Ed. I. Inter
hrevia return.
de Term. Mult.
in Sec. in offic.
Rem. Thesaurar.
ibidem.</sup>

The second
objection, that
is only against
Impositions
upon Wooll,
aufwred.

The Petition for present ease is to be released onely of the *Male tolle* of foure shillings upon a sack of Wooll, which is yeelded to : The security for the time to come, is, *We will take no such thing*: The saving which followeth that, is, *Saving the Custome of Woolls, Woolfells, and Leather*. I observe, the saving extends not to woolls alone, as the Petition doth, but also to Wooll-fells and Leather, by expresse name; by which it is evident, that the securitie for the time to come is of a larger extent than to stretch onely to Woolls, as hath been objected: For else, to what end should Wooll-fells and Leather be excepted in the saving, if they had not been contained in the generall words, *no such thing*. An exception cannot be but of a thing contained in former words: If therefore the grant would have extended to Wooll-fells, if they had not been specially excepted; then doe I conclude by the same reason, that it doth extend to all other Merchantizes not excepted; for the words are generall. And so I leave this Law cleared of all objections, and very full against Impositions.

The fourth Statute urged against Impositions, 14 E 3. cap. 11. cleared from objections.

The next Statute made against them, is, 14 Ed. 3. cap. 21. By the first part of which Law you may perceive, that whereas the Commons had prayed the King not to take of Woolls, Wooll-fells, Leather, Tyn, or Lead any more than the ancient Custome, the King prayed them to grant him forty shillings upon a sack of Wooll

Wooll for a yeer and a halfe, which they granted: whereupon the King, by way of Recribution, and in answere of their Petition, as touching the Wooll causeth it to be enacted for their Security in time to come, *That neither he nor his beires would demand, assesse, nor take more custome of a sack of Wooll than sixe shillings eight pence: And so likewise upon Woolls and Leather, no more than the ancient custome, without assent of Parliament.* All this while there is no answer given touching the Tyn and Lead mentioned in the Petition; upon which, as it appears, the King had also laid Impositions: But there doe follow certain generall words, by which, not onely Tyn and Lead, but all other Commodities whatsoever are freed from Impositions: The words are, *The King promised in the presence of his Earles, Barons, and others of his Parliament, no more to charge, set, or assesse upon the Custome, but in manner aforesaid.* Except these words doe extend to Lead and Tyn, to free them from Impositions for times to come, as well as woolls, wooll-fells, and Leather are freed by the former speciaall words, their Petition touching Tyn and Lead is no way answered: And if they doe extend to Tyn and Lead, by reason of the generality of the words, they doe by the same reason extend to all commodities: For what more liberall words can there be than these, *That the King will not charge, set, or assesse upon the custome: these words, the custome,* being

being words indefinite, are (you know) equivalent to an Universall, according to the rule,
Indefinitum equis pollet universalis: And althought
the King doe but promise, yet I doubt not but
in this case his promise is a Law: And it is worthy
the observing, that the Lords doe in very ex-
traordinary and unusuall manner solemnly un-
dertake, as much as in them lyeth, that they
shall procure the King to hold the same, and
that they shall in no wise assent to the contrary, if
it be not by the assent of the Prelates, Earles, Barons
and Commons, and that in full Parliament; and
for the greater surety, and to give cause to es-
chew all counsell to the contrary of this Ordin-
nance, the Prelates have promised to give sentence
upon them that counsell against the same in any
point; which are the very words of the Sta-
tute in print.

The Statute of 14 Ed. 3. cap. 21. was yeilded
13. Ed. 4 n. 3. Ro. Par.
unto by the King, upon a Petition exhibited
the Parliament before, both by the Lords and
the Commons, praying that a Law might be
made against Impositions, as may appeare by
the Records of the 13 yeere of Ed. 3. at which
time they likewise prayed, that the King would
be pleased to grant them a Charter to the same
effect, to be inrolled in Parliament: The Sta-
tute you have heard; the Charter followeth in
our printed booke immediately after the Sta-
tute, where the King (in the preamble thereof)
reciting the great gift that he had given him at
the

the same Parliament, that is to say, the 9th Fleece, 9th Sheep, & 9th Lamb throughout the Kingdom, which indeed, was a very extraordinary great guift ; and therefore his grant, in regard thereof, is to be intended so much more beneficially. doth in lieu thereof, for him and his heires, grant to his Subjects in these words ; *From henceforth they shall not be charged, nor grieved, to make any ayde, or to sustaine charge, if it be not by the Common assent of the Prelates, Earles, Barons and other great men, and the Commons of our said realme of England, and that in Parliament.* It hath been objected, that these words, *Aide and Charge*, are to be understood of Charges within the Land, such as are Taxes and Tallages, and not of Impositions upon Merchandizes ; And this is the only Objection made, or indeed can be made against this Statute ; For the clearing of which, I can say no more then already I have proved by matter of Record for the opening of the sense of this Statute, viz. That this Charter, and the last Statute were made upon a Petition exhibited in Parliament, for a law and Charter to be made against Impositions upon Merchandizes. And therefore that conjecture of theirs, that it should extend only to Taxes, and not to Impositions, cannot but fall to the ground, especially since there is not in the Petition, any mention at all of Taxes or Tallages, or of any other charge or aide but impositions onely, then which there cannot allmost be a cleerer proof,

R.

then

An Objection
that the Stat. of
14 Ed. 3. An. 2. § 1
extendeth only
to Impositions
within the land
and not to Im-
position upon
Merchandizes,
is answered.

then that this Law being made upon this Petition, is to be expounded against Impositions; which, if this Petition had not been extant, would with no lesse cleernessee have been proved by considering the mischiefe at the time of the making of this law, which was not Tallage or Taxes, but those heavie Impositions of Foure pound, and five pound upon a sack of Wooll, by way of dispensation with the Statute of 11. E. 3. cap. 1. of which I have formerly made mention. So as this Statute, being made in the first intention against dispensations for money, with a penall law, though the occasion were particular, yet (the words being generall) *I hold that with reason it may be extended against all dispensations, with penall lawes for money:* in particular, I hold, that the raising of money by dispensations, with the Statutes against Ale-houses, is (if not by the Common Law) yet by the force of this law, unlawfull, For certainly, *quod prohibitum est una via, non debet alia permitti.*

As for the words *Ayde* and *Charge*, I have already proved that it was a terme by which Impositions were commonly called in those times; That they were also called *charges* is evident by very many Records of those times, where complaint is made against them, as 21. Ed. 3. Numb. 11. *Les commons prient qe la charge de 2., sur sack de laine soit Ousté,* 21. Ed. 3. Numb. 16. "The Commons pray that no charge be set up "on them without assent of Parliament. The Kings

The word
Charge.

kings answere is , if any *Imposition* be levyed unduely it shallbee taken away ; of this kinde there are very many Presidents, so as if the precedent Petition had not assured us of the scope of this Lawe as it doth , the very words themselves, rightly understood, would have made it cleere.

In the same Charter there is another clause as beneficiall as this , to thiseffect , *All Merchants Denizens & Forreins* (except those which be of our enmities) may without let safely come into the Re却 of England with their goods and Merchandizes , and safely tarry , and safely returne , paying the cu-stomes , subsidies and other profits reasonably thereof due . The objection to this clause is very obvious , for what (say they) can these words , Other profits reasonably due signifie other than *Impositions* ; for , by the words going before , Custome and Subsidies are expressly named , and theré is (say they) no other third profit upon Merchandise but Impositions , and indeed this Statute they themselves have youched in maintenance of Impositions . To this objection it might serve for a full answer , that there are other duties then Customes and Subsidies due upon the landing of wares ; for example *Wharfage , Cranage , Scavage* and such like , the which with more probability I may conjecture to be intended by these words , Other duties , then they can conjecture it to bee meant of *Impositions* , Sed in planis non opus est conje-

This. The best expositors of this Act are those that lived in the same times, and they doe cleerely expound this clause to be made against Impositions; as may appeare by the Record of 21 E.3. No.29. for you shall there finde a Petition exhibited in Parliament by the Commons to bee relieved touching an Imposition upon Wools, alledging for a reason of their Petition, that every man ought freely to passe paying the ancient custome as it was ordaine by the kings Charter. This Petition against Impositions was exhibited by the whole Parliament, within six yeeres after the making of the Charter, as may appeare by comparing the times, and if they had not then thought that *Impositions* had been meant to have beeene provided against by this Charter, they would not certainly have made such a speciall reference thereunto. In discovering the weakenesse of the reasons alledged in maintenance of Impositions, I shall not greatly neede to say any thing more then hath of Impositions been said, because the state of the question hath beeene already so throughly opened unto you, that whatsoever can with any colour of reason be said for Impositions, may receive an answer out of that which hath beeene spoken against them : Neverthelesse, I will in a few words recall to your memories their reasons, and in as few apply the answers to them, with some additions of mine owne, that by laying both together in your view at one time, the weakenesse

of
Answers to the
Reasons urged
in maintenance of
Impositions
in maintenance
greatly neede to say any thing more then hath
been said, because the state of the question hath
beeene already so throughly opened unto you,
that whatsoever can with any colour of reason
be said for Impositions, may receive an answer
out of that which hath beeene spoken against
them : Neverthelesse, I will in a few words re-
call to your memories their reasons, and in as
few apply the answers to them, with some addi-
tions of mine owne, that by laying both toge-
ther in your view at one time, the weakenesse
of

of the one, and strength of the other may the better appeare unto you.

It hath beeene said that the old Custome of a Demi-marke upon a sack of VVool must have his beginning either by the kings absolute power, or by a legall assent of the people, which can bee no where but in Parliament, and cannot but appeare of Record; but because no such assent can be showne, therefore they conclude that it began by the kings absolute power, and inferre that the same power remaines still. The substance of this argument is found in my Lord Dyer in the place cyted by me; It was much enforced in the Exchequer: but as touching the particular of the old Custome of a Demi-marke upon a sack, and the other old custom upon Fels and Leather, it is now no longer urged because it appeares exprefly by divers Records of 3 E. I. in the Tower, That it was granted *per les grandes et al prior des Comons et de les Merchants de tout Englaterre*, and by a Record of 25 E. I. cap. 7. Stat. printed, *per Communitatem Regni nostri Angliae*, which concurses also with the Statute of 25 E. I. cap. 7. in print. Saving to Us and our Heires the Customes of wools, skins and leather granted heretofore by the Comminalty aforesaid. The Patten roll of 3 E. I. which hath these words *cum Prelati Magnates ac tota Comunitas Mercatorum Regni nostri nuper nobis concesserunt quandam novam consuetudinem, viz. de quolibet sacco Lane 6' 8^d, &c.* being some-

The first argument, That because it cannot appear that the ancient Customs were set by Parliament, therfore they were imposed by the King, answered

R.o. Pat. 3. E. 3.
M. 1. Stat. 25.

E. I. cap. 7. R.o. Pat.
intus 3. E. I.
M. 24.

3. E. I. M. 1.
Ro. Par.

thing obscure are by the concurrence of all those other Records so cleerely expounded, as there cannot be, neither now is there, any question made but that the Custome of a Demy-marke, and the other old Customes, which by my Lord *Dyer*, and by all those who argued for, or against Impositions in the Exchequer, was held to bee due by the Common-Lawe, was by grant in Parliament; neverthelesse the strength of the argument they still retaine, though the Demy-mark and those old Customes upon the staple commodities were by A^t of Parliament, yet (say they) before that increase by Parliament the king had Custome, and no doubt a some certaine, otherwise could not this increase be called *nova consuetudo*; besides (say they) the Custome reduced to a certainty by 3 E. I. is only upon three commodities, wool, skins, and leather: there are many other commodities which did likewise pay Custome; How began that Custome (say they) if not by the kings absolute power? and when was that power taken away? I answere, admit it were by the kings absolute power, yet that the king hath cleerely discharged himself of that power by A^t of Parliament, I hope I have cleerely proved: But this question, How began the first Customs? is best answered by another question, How began the Fine for purchase of Originall VVrits? the Fine *pro licentia concordandi*? the certainty of prisage? nay, who reduced it first to certaintie that

that the tryall of issues should be by twelve Jurors, no more nor no lesse? that the full age of a man should bee accounted twenty one yeers? of a woman fourteene, twelve yeeres her age of consent, and nine yeeres capable to bee endowed? a yeere and a day given to sue an appeale, the like limitation of a yeere and day in very many other Cases? In effect, who reduced all the known grounds of the Common law to that certainty that now they are? Because wee cannot tell how or when they began, shall wee therfore conclude that they began by the kings absolute power, and inferre, that by the same reason, they may bee changed at his pleasure? If the king may increase his Fines upon the purchase of Originall writts (which by the same reason hee may doe, that hee may doe his Custome, nay, hee hath more colour for this then for that, because there is no Statute against this) hee might easily raise that revenue to the value of his Customes: But no man can, nor will I hope offer to mainteine it to bee lawfull. You see the weakenesse and the dangerous consequence of this argument, by comparing it to other cases of like nature. To say the truth, all these things began no man can say certainly when or how, but by a tacit consent of king and people, and the long approbation of time beyond the memory of any man, and yet no man can directly affirm but that most of them might begin by Act of Parliament, though now there
be

The antiquity
of Parliaments

bee no Records extant of such antient Parlia-
ments. The first Parliament was not kept *9 H.3*
though it be the first in our bookes. If we will
give credit to other Records, and to our best
Chroniclers, we shall heare and reade of divers
Parliaments in the Reigne of King *John*, and of
his Predecessor *Rich. I.* and in the Reign of *H.2.*
of two famous Parliaments, one at Claringdon
in Wiltshire, the other at Gedington in North-
Hamptonshire: And although our Chronicles
say, that the first Parliament kept in this Realm
was held *19 Aprilis, 16 H. I.* yet I am of opini-
on, that *William* the Conqueror held Parlia-
ments; for what can be else understood by these
words, *Per commune consilium totius Regni nostri*
stabilitum fuit, which I finde in Mr. *Lamberts*
collection of the ancient Lawes of England, in
the beginning of the Lawes of *W.* the Conqueror:
Many of the Statutes of *E. I.* have no other
words: Nay, long before him, in the yeere of
our Lord *712.* in the time of *Inas* King of the
West-Saxons, I assure my selfe there were Parlia-
ments held, and that of the three Estates, as at
this day; as may appeare by these words in the
beginning of the Lawes of King *Inas*, in Mr.
Lambert: Suas & Iustitio Episcoporum nostrorum,
omnium, Senatorum nostrorum, & natu ma-
jorum populi nostri in frequentia magna: And
more plainly in the conclusion of some other
of his Lawes; *Hoc factum fuit per commune con-*
silium & assensum Procerum, Comitum, & om-
nium

nium Sapientium, Seniorum, & Populorum totius Regni, & per praeceptum Regis Inæ, which are the same in Latine which ours is in English, By the King, the Lords Spirituall and Temporall, and the Commons. VVhy might not the Custome upon Woolls be first granted at one of these Parliaments, as well as to have it first begun by the Kings absolute power? There is no more probability of the one than the other: because most of the ancient Records were burnt in H. 2. time, when the Exchequer was burnt, shall we conclude therefore that there were never any such? You see the weaknes of this Argument in all the points thereof. I leave it, and passe to another.

The King may (say they) restrain the passage of Merchants at his pleasure, which they prove by divers Records; 2 E. I. m. 18. Ro. Par. 2 E I. m. 17. Ro. fin. 31 E. I. n. 44. Ro. Pat. 17 H. 6. Ro. Clo. in dorso: Upon which they inferre, that if he may restraine a Merchant that he shall not passe at all, he may much more so restraine him that he shall not passe except he pay a certaine sum of money: For this (say they) is lesse than totally to restraine him; And (*Cui licet quod maius, licet etiam quod minus.*) Of this Argument my L. Dyer gave light in his case of Impositions, 1 Eliz. and this hath been diversly enforced by all that have argued for Impositions. In answer of which I will consider how farre the king may restrain the passage of Merchants, and then will

The second Argument, that the King may totally restrain the importing and exporting of merchandizes, therfore he may do it *sub modo* by laying of an Imposition, answered.

examine the consequence of the Argument.

For my part, I think the king cannot restrain the passage of Merchants, but for some speciall cause; wherein to define certainly and resolute-
ly, to say for what causes he may, and for what
not; I will not undertake: Onely let me inform
you, that there is not one of these presidents
vouched by them to prove the kings power to
restraine, but they are upon speciall reasons; as
by reason of Enmity with such a Nation from
whence they are restrained, or because such a
Commodity may not be spared within the king-
dome: Besides, they are not restraints from all
places, and of all manner of Merchandizes, but
from certain places onely, and for certain sorts
of Merchandizes: And for my part I thinke
that restraints in all these cases, and of like na-
ture, are by the Common-Law left to the kings
absolute power; For if it were otherwise, it
should be in the power of a Merchant, for a little
private lucre, to enrich the kings Enemies, or
to furnish them with munition to be employed
against the State, or utterly to ruine the Com-
mon-wealth, by carrying out a Commodity
which may not be spared, or by bringing in of
some that may be hurtfull. Nay (which is more)
such may be the occasion, that the king may,
I doubt not, stop the passages of all Merchants
from all places for a short time, as upon the
death of the late Queene it was put in practise,
to prevent Intelligence: there may likewise be
such

such necessary use of their ships, as the want of them, upon some sodaine attempts, may be a cause of the overthrow of the whole State. In such cases as these, if the Common law did not give the King leave to restraine their passage by his absolute power, it were very improvident in the highest points, which cannot be imagined of so wise a law; And yet the Kings of this Realme have alwayes been sparing in the practise of their absolute power in this point, For there are little lesse then 30. Acts of Parliament, touching the opening and shutting up of the passage of Merchants, most of which, as I conceive, were made rather for the increase of punishment, then for want of power in the King, For the breach of a restraint by absolute commandment, is punishable, as all other contempts, onely by Fine and Imprisonment, and not by forfeiture of the Merchandizes, as in the president of the Wines, An. 5. of Queene Mary, vouch'd by me, and is in some of those old presidents. If it be otherwise, I must confess I know not the reason of the difference of this from other contempts. You see that I have yeelded to their proposition, *That the King may by his absolute power restraine the passage of Merchants*, and have therein granted, more then their presidents prove; But is the consequence good, that because the King may restrain, therefore he may impose upon such as passe? First I denie that in our case there is any restraint at

all, as there was in the case of the French Wines, by Queen *Mary*, by her Proclamation going before the imposition. For prooфе of which, I referre you to the Kings Letters Patents prefixed before the last Book of Rates, by which instrument, the impositions now complained of, were altogether raised, you shall finde it no other then a Declaration of the Kings pleasure so to have it, and a course prescribed for levying of it; But admitting that the very laying of an imposition, did implie a restraint, yet I denie the consequence, Because the King may restraine totally, that therefore he may restraine for a time, or from certaine places, or certaine commodities, or certaine Merchants. This indeed is a good Argument, *a majori ad minus.* But because he may restraine totally, therefore that he may give passage for money, is no good consequence; For in our case, there is no restraint at all, but it is rather a passage for money. If there be just occasion of a restraint, the law giveth the King power to restraine; but when Merchants may without hurt of the State, have passage, as in our case, to enforce them to pay for that passage, is in my opinion, as unlawfull as to enforce any man whatsoever, to pay for doing that which he may lawfully doe; Merchants have (as I may so say) as good inheritance in their trade, as any man in his lands, and when it may stand with the good of the state, that they may passe,

passe, they ought to passe as freely without charge imposed on them, as any man ought to hold his inheritance, or any Artificer, or other Tradesman ought to exercise their lawfull trades, and means of living, free from burdens to be laid on by the Kings absolute power ; if all others should be free, and onely Merchants, (who adventure their persons and estates in so many dangers, to bring us from farre places, such things, as without which we cannot subsist, and to returne us profit for our superfluities) should be subject to involuntarie burthens, their estate were of all other mens most unhappy and slavish, which of all other trades, is indeed the noblest, and most worthy to be cherished.

And here by the way I note, that in all other Nations of the world, where the Merchant is subject to impositions at the Kings pleasure, the Landlord, the Farmer, the Artificer, the very Plowman, and all others are in like sort subject to Taxes and burdens, when the King pleasereth, The Merchant is not the man alone that is subject to Taxes, and all other men free : if in the frame of our Common wealth, it were thought fit to free all other Trades and Professions from taxes, much more ought it to be thought reasonable, that our Merchants should be free, and by all means possible, encouraged in their Trade. For our case is not, as it is with other nations of the Continent ; we are Islanders, and divided



by the Sea, from all the world, and in that respect, have such use of Merchants, as we cannot live without them; if therefore any should be free amongst us, it should be the Merchant, and not the quite contrary, onely the Merchant charged, and allothers free: *Plato* in his 8. book *de Rep.* is of opinion, that the Merchant for his encouragement to trade, should be free from all Custome whatsoever, we seek only to be free of involuntary impositions. But to return to the Argument of restraint, from whence I am a little digressed; if it be a good Argument, that because the King may restraine in *Toto*, he may restrain in *Tanto*; It will not be denied unto me (for it followeth necessarily) that in cases where he cannot restraine in *Toto*, he cannot restraine in *Tanto*: But there is no man that will say that he may restraine the entrance and passage of all Merchants, to and from all the parts of the world whatsoever, without any limitation of time, but the restraint to endure for ever, and for all kinds of Merchandizes whatsoever, of most necessary and common use, to be brought into, or carried out of the Realme; There is no man I suppose will say, That the Law hath given the King power to make so unreasonable a restraint as this; for it were to give him a power to destroy merchandize, and consequently, to ruine the Common wealth, Beside, it were against the law of nations, and of reason it self; It cannot be imagined, that any wise

wise law in the world should allow it. But if our Impositions (as it is said) doe implie a Restraint, and that a restraint be always the fore-runner of all Impositions, Then such an unreasonable restraint, as I have spoken of, must needs be presupposed to have been the ground or fore-runner of our present imposition, For in our impositions, are not all the merchandizes of necessary and common use charged? Are not all the Merchants Denizens and Strangers, importing from any part, or exporting to any part of the world, subject to the charge? is there any limitation of time, but to endure for ever? if I say such a restraint had been unlawfull, which I suppose no man will denie, then whatsoever implieth such a Restraint (which our impositions doe) is likewise unlawfull; But the ill consequence of this their argument drawne from the Kings power of restraint, will best appeare by comparing it to other cases.

I little doubt but the King upon some occasion, may lawfully restraine the passage of all men through the gates of *London*; as for the purpose, when the Citie shall be besieged, or in the time of an extreme plague; Nay is it not by authoritie derived onely from him, that the gates are shut every night? Doth it follow therefore, that because he may doe it upon some extraordinary occasion, or at some time that he may shut up the passage for ever? or that presupposing

sing such a restraint by his absolute power, he may lay an imposition upon every burthen of any thing brought in, or carried out, as the Duke of *Florence*, and many other States in *Italy* and *Germany* doe, or upon every man by the Poll, that shall passe through the gates?

You see the weaknesse and danger of the consequence of this Argument, and how it tends to justifie Impositions within the land. And so I leave it, and proceed to the next.

The third Argument, that the Ports are the Kings, and that he may open them, and shut them up, on what conditions he pleaseth, answered.

The Ports and Haven Townes of England, are (say they) the Kings, and in regard thereof, he may open and shut them upon what conditions he pleaseth; I answere,

I. That the Position, that all the Ports are the Kings, is not generally true; For Subjects may also be owners of Ports, as may appeare by the Patent Roll of 3.E.I.M.1. Parl. where you shall finde, that King *Ed. I.* granted to the *Lords of Port Townes*, the forfeitures granted to him by Parliament, for not duly paying the new Custome of the demy-Marke within every severall Port, of theirs, where the Merchandizes should happen to be imported or exported. But admitting the truthe of the position, yet is the consequence as weake and dangerous, as of any of the rest of their arguments; For are not all the gates of Cities and Townes, and all the Streets and Highwayes in England the Kings, and as much subject to be open or shut at his pleasure, as the Ports are? Nay, whensoever we

we speake of the Highway in any law busynesse, we call it *via Regis*, the Kings Highway , and the King in his Commissions, speaking of *London*, or any other Citiie , calls it *Civitas nostra, London, or Civitas nostra Exon;* Doth it follow therefore, that the King may lay Impositions upon every man , or upon all Commodities that shall passe through any of these places ? Nay the gates of the Kings owne house (for the purpose, his Pallace of *Westminster*) are his in a farre neerer degree then any of these , may he therefore by his Proclamation impose upon every man that shall passe in or out at *Westminster* Hall doore a summe of money ? Doubtlesse he may not; because the King is a person publicke, and his Subjects ought to have accessse to him, as to the fountaine of Justice , and to the Courts of Justice, sitting by his authoritie ; I make little doubt, but his Majestie may upon just occasion, cause any of these passages to be shut , as he may also the passage at the Havens ; But when the Passage may without danger to the State, be open , and that the Subjects may passe, his Majestie may not then exact money for their passage ; For the law hath given the King power over theſethings, for the good of the Common-wealtheſt, and not thereby to charge and burden the Subject ; If the King may not exact money for passage in and out of his Court gates, because of the publikenesse of his Person ; Nor for passage through the gates

of Cities, much lesse may he for passage out at the Ports, which are the great gates of the Kingdom, and which the Subject ought as freely to enjoy, as the ayre or the water.

The fourth argument that the King is boundat his owne charge, to protect Merchants, & therefore it is necessary it shoule be in his power to lay moderate Impositions upon Merchandizes for raising of money to defray his charge;

Answered.

The Fifth Argument that all forraine Princes have power to im- pose, and if our King had not the like, it might be very inconveniuent to this State.

Answered.

Another of their arguments is this, *The king is bound to protect Merchants from spoile by the enemete, he ought to fortifie the Havens, that their ships may there abide in safety; he ought, if occasion be, to send Ambassadors to forrein Princes, to negotiate for them,* and many the like charges is the King by the Law to undergoe for the protection of his Merchants. It is reason therefore that his expence be defraied out of the profit made by Merchants, and consequently, that he may impose upon Merchandize a moderate charge, thereby to repay himself.

The consequence of this Argument is thus farre true, The law expects that the King should protect Merchants, therefore it alloweth him out of Merchandize a revenue for the maintenance of his charge, which is the old Custome due (as at first I said) by the Common law, But it is no good consequence, that therefore he may take what he list, no more then he may at his pleasure increase that old revenue, which the law giveth him for protecting of Subjects in their suits, or for protecting Wards, &c.

Another Argument of theirs is this, *All other Princes of the world may impose upon merchandize at their pleasure, and so may make our Merchandizes lesse vendible with them, by laying an Impos-*

siti-

sition upon them, to be paid by us, when they are brought into their Territories, whereby their owne Commodities of the same nature, may be sold more to the gaine of their Merchants, and our Merchant impoverished, or driven from his Trade; They may also lay Impositions upon our Merchants, fetching Commodities from thence, and leave their owne Merchants free from any Imposition in the same case, by which their merchants shall reape all the profit by that commoditie, in affording it better cheape to us here, then we can fetch it, and consequently our merchants shall be undone, Many the like cases have been purto prove, That if the King of England may not impose, as other Princes may, they shall be able at their pleasure to destroy our trading; This I conceive was the same as now it is, during all that time from Ed. 3. til Queen Mary, and doubtlesse it could not but sometimes (during that long space) so fall out, that forreine Princes did put their power in practise to our prejudice, and yet we heare not of any Imposition laid by any of our Kings, by their absolute power, which may give any man assurance, that they tooke some other course to meet with the inconvenience, and in deed, the meanes are divers, which these our Kings used to prevent it.

First they were carefull in all their Leagues and Treaties with forrain Princes, specially to provide for it, as may appeare by the Records of the ancient Leagues: Neither is there any

League of late time, that hath not had an Article for provision in this point; which Leagues for the most part, are upon oath on both parts. And yet for further securitie, our Kings have always had Ambassadors resident in the Courts of such forraign Princes, to put them in minde of their Leagues, if upon any occasion our Merchants have in that case happened to be never so little wronged by them, & if upon complaint of the Ambassador, our merchants have not found redresse, our Kings have held the League as broken, and denounced Warre, or seised all the goods of the same Princes Subjects within England; and I dare say there have been more warres undertaken by our Princes, against forraign nations, onely for this cause, then for any one other cause whatsoever.

Besides, our Kings have in this case sometimes made use of that their Prerogative of restraint, either by prohibiting our Merchants from carrying our Commodities into those parts, where they are charged with Impositions, that so by the want of our Commodities, forraigne Princes might be enforced to abate their Impositions laid upon them, or by restraining the Merchants of forraign Princes to import or export commodities from hence; By which meanes forraigne Princes have been compelled to deale favourably with our Merchants for the good of their owne Subjects; All these are lawfull and ordinary means to prevent or redresse the

the inconvenience which may grow by the Impositions of other Princes: If all these ordinary means should happen to faile, which can hardly so fall out, and that the laying of Impositions be indeed the only means that is left to redresse the inconvenience, why should not that be done by Act of Parliament as well in these times, as it was in 7. H. 7. cap. 7. to take downe the Imposition of Fouire E'uates upon a But of Malmsey, imposed by the Venetians, And as it was done by Queen Eliz. the 19. yeere of her Reigne, to prevent the laying of Impositions by forraine Princes upon *Salt-fish*, as may appeare by the printed Statutes of 19. Eliz. cap. 10. But as I have said, the providence of the Prince, and ordinary power of restraint may very well meet with the inconvenience.

These are the chiefe reasons made in maintenance of impositions, the weaknesse of them, and their dangerous consequence, you cannot but perceive; For by the same reasons, Taxes within the Land, may be as well proved to be lawfull. On the contrary part, you have heard the reasons against impositions fortified by many Records and Statutes in the point; So as I conclude, that *Impositions*, neither in the time of warre, or other the greatest necessitie or occasion that may be (much lesse in the time of peace) neither upon forraine, nor inland Commodities of whatsoever nature, be they never so superfluous or unnecessary, neither up-



on Merchants, Strangers nor Denizens, may be laid by the Kings absolute power , without absent of Parliament, be it for never so short a time, much leſſe to endure for ever, as ours. Though this be now my opinion, yet am not I ſo obſtinate therein, but iſ yet I hearē better reaſon, I will once againe change my minde; in the meane while, you ſee I had reaſon to alter my firſt opinion, as being grounded upon very weak Reasons, as now they appeare unto me. And ſo I ſuppoſe they doe alſo unto you.

FINIS.



7^o. Julii 1641.

A T a Committee of the Ho-
nor able House of Com-
mons, for Examination of books,
and of the Licensing , and Sup-
pressing of them, &c.

*It is Ordered , That this Argu-
ment upon Impositions , be
forthwith published in print.*

EDWARD DERING.



The following is a list of the
titles of the books which have
been written by the author of
the present work, and which
have been published in America,
England, France, Germany,
and other countries.

A decorative horizontal border at the bottom of the page, featuring a repeating pattern of stylized floral or scrollwork motifs.

AN APOLOGY FOR A YOVNGER BROTHER

OR

A DISCOURSE PROVING
that PARENTS may dispose
of their Estates to which
of their Children they
please.

By I. A.

*Written for the generall good
of this Kingdome.*

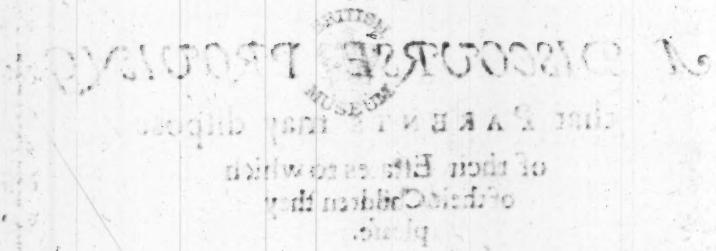
OXFORD,

Printed by LEONARD LICHFIELD for
Edward Forrest, 1641.



АПОЛОС
СВЯТОЙ АПОЛОС
ПАПИОН

10



A.Y. 19

long furrowing will not affect it
much with time

DATA SOURCE

to distinguish between them,
and to have time.



TO
ALL FATHERS AND
SONNES OF WORTHY
FAMILIES

*Whom Virtue, Birth, and Learning have iustly
stiled GENTLEMEN, Health, Hapi-
ness, and Encrease of the best
Knowledge.*



S in the Front of this brefe Discourse, there is (Right Worthy Gentlemen) already delivered vnto you some light of that which concernes the Qualitie, Reason, and Scope thereof: so doe I here sincerely professe, that I did not privately write it at First but for privat satisfaction; neither
doe

The Epistle

doe I now make it publike , but with due relation to the generall good of Great Britaine, and for the exercize of Honourable Spirits, in this our much-speaking and paradoxicall age.

Not vpon the least presumption (of a self-sufficiency, to confront thereby any receaved custome (if any such be) nor to diminish the naturall reverence due by Younger brothersto to theire Elder; nor to enkindle Emulations in Families, nor to innovate any thing to the prejudice of publike or privat quiet (which none I hope will be soe ill affected as to suppose,) neither mine in offensive zeale for Younger Brothers (amongst whom I am rancked one) nor the absolute consent of Imperiall and Ecclesiasticall Lawes (which I haveing alittle studied doe not a little respect) nor the particular honor I beare to the usages in this poynt, of our ancient Brittaines (from whom I am descended) nor desire to maintaine and justifie an act in this kinde, done by a friend (whome I must ever reverence) nor yet the hope of bettering my private fortunes

to the Reader.

fortunes (which moves men much in these our times) hath drawne me to this Vndertaking: but principally (as before is somewhat touched) the singular respect which (as a *Patriot*) I beare to the glory , and good of Gentlemens houses, whose best originall, surest meanes of maintenance, and principall Ornament is *Vertue*,, or force of Minde : The want whereof , is a common cause of Ruine. The free power therefore of You who are Fathers, is here in some speciall cases argued and defended , to give you occasion thereby to consider with the clearer Eye-sight, for the establishment and continuance of Families. Here also the naturall Rights of vs that are Children be soe discoursed and discussed, as that We younger Brothers may have caues and courage, to endeavour by vertuous meanes , to make our selves (without the least wrong to any) capable (if need shall be) of the chiefest vses. And Both, and All are so handled, as that no offence can reasonably arise in any respect: much lesse , for that the whole is conceaved

The Epistle

and written in nature onely of an Essay or Probleme, to which I binde no man to afford more beleefe, then himselfe hath liking of: being free to refute the whole, or any part at his pleasure, as he feeles himselfe able and disposed.

If I may seeme to some, to have handled this Subject with more earnestnesse and Acrimony then they thinke expedient: let them be pleased to weigh the *Decorum* of Disputes, which is principally herein observed: their nature absolutely requiring quicknesse and vehemency, on whether side soever.

As for the remedies of Evils, by way of enacting Lawes, that is the proper office of Magistrates, and Courts of publike Counsell: neverthelesse to speake and treat of them (vnder the favour and correction of Superiours, to whome I doe alwaies very dutifuly submit) is a thing which may well belong to every man. But, for those graue and Learned Censors, to home I may seeme to have bestowed my paines in very needless Argum-
ents

to the reader.

ments, because no lesse then I my selfe, they hold the case (as here it is put) to be most cleere and out of controversie: to such I answer, that I wryt it not for them, vnlesse perhaps to confirme their judgements; but for others, who are not altogether so principled or perswaded. Nor to any, as to prescribe, or bind further then their owne consciences shall think good. For that were farre too peremptory.

Finally, nothing being here defended but by Authority, Reason and Example; nor any person taxed, nor particular personall Vices; if neverthelsse I have not perform'd my part in the work so well as I desire, or as the Cause deserves (which I feare I have not) yet my hope is (Right Worthy Fathers and Worthy Sonnes of Right Worthy Families) that for my honest meaning, and good Intentions sake, you will ever conceave well of, and take in your speciall Protection,

Your vnfained Well-wisber,

J. A.



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THE



THE YOUNGER BROTHER HIS APOLOGIE.

CHAP. I.

The occasion of writing this Apologie, is to proue that Fathers may in some cases dispose their worldly Estates to which of their Sonnes shall reasonably please, &c. for so much thereof as they will; & that to be lawfull by the Law of God, of Nature, and of Nations.

NO T many Moneths since being invited by a deare Friend of mine to a solemne Feast, made by him to many of his well-deseruing Friends, it was my fortune at that Meeting to acquaint my selfe with many Gentlemen of no meane discourse: Whereby I feasted as well my Vnderstanding with their pleasant Societie,

Societie, as my Tast with the variety of most excellent Meats.

With what our lenses were delighted, I let passe to recompt, since neither profit, pleasure, nor praise can arise thereof, either to the Writer or Reader. Onely my intent is, to make my Reader acquainted, what accident caused mee to write this small Treatise, and emboldned me to publish the same to the common view of this all-reprehending Age. In which neuert helesse I rather hope for Allowance, then in any sort feare Displeasure.

For though my subject bee New, yet I hope it shall want at the first rather Age, and Strength, which growes by yeares; then probable Arguments, yea forcible Reasons to defend it selfe. As for Friends, I trust, it will finde some, and peradventure more then Enimies, if it deserue well. For, as younger Brothers bee more in number then Elder, so are they generally more free in bestowing their deserued Loue. For Want breeding Understanding, makes them know and prize their Friends according to their Worth. Whereas the Elder, either seated in his Fathers Wealth or Possessions, with more then hopes to enjoy their Fortunes, doe sometimes neither loue truly themselues, nor any man else; but abusing that which indeed might gain the loue of God and Man, & easily maintaine their hereditary Honour, loose themselues in Vanity & most idle courses; yea in their Fathers liues, so strangely carry themselues (presuming rather on precedence of Birth, then Worth) as though the Law

Some friends
sticke closer.
then a Bro-
ther, Prov. 18.
v. 24.

ot

of God, of Nature, and all other Canon, Civill, & Nationall Lawes, Constitutions, and Customes sprung from them, could not either in Reason or Religion barre them of that which they expect; or give to a well-deseruing younger brother any little * hope lawfully to share with them the least part of their Fathers Inheritance: much lesse to expect an Elder Brothers Fortunes : or *on any termes*, or *for any cause*, by a Fathers favour, to steppe before them.

Which Argument among many others, was then handled by the Company *pro* and *contra* so doubtfully, that it gaue mee occasion to write this present Discourse concerning the free power of *some Fathers*. Wherein I intend not to displease or *the younger.* [See vers. 32.] *the Fathers Apology for* inconciliate Elder Brothers; no nor them, who not inheriting their Fathers Vertues, striue not to maintaine their Ancestors Honour, in preseruing their Noble Names * and Familes, by which as a reward to their Vertues and Trauels, Men haue alwaies laboured to liue to all succeeding Ages, in *their Posterity.*

But my intent is to shew, how *Opinion* and *Inconsideration* make oft-times the Wile to bee scrupulous, and through *superstitious Zeale*, not onely to feare to doe that which Reason may or might haue commanded; but in their *erroneous Judgements* rashly to condemne other mens Acts as *vnlawfull* * Amongst all Gods temporall blessings promiséd as Rewards to his faithfull servants, I finde none greater in holy Writ, the the spreading of their

Family. So God to Abraham, I will make of thee a mighty people. What God prizes as so great a guerdon to his best Favorites, shall *Unworthy Man* esteeme a Trifle? *Carter, Achitophel. part. 3.*

4
and irreligious , which according to Reason and Religion haue beeene done and ratified; vsing them-selues THAT CVSTOME for the overthrow of their Families , which was indeed only deuised for their preservation ; and being hoodwinkt with false conceipts , doe wittingly leaue that , which they and their Ancestors had gotten, as the reward in this life of their vertues, to be the future Fuell of all inordinate Desires & Bestiall sensuality , which in their providence they could willingly otherwise haue disposed of.

All which I doubt not but to make cleare to the impartiall Reader: prouing by the Law of God & Man,that a Fathers freedome is such,that hee may *Lawfully* and *Religiously* giue his Lands & Goods, or other his Fortunes , to any of his Children, for the preseruation of his Name, and comfort of his Posterity,without all scruple , as right Reason,or the better Deserts of a Sonne shall perswade him, void of all tendernesse or blindnesle of Affection, which oftentimes leads a Fathers Will,& corrupts his Understanding: so as he be true Lord thereof, not tied by consideration of Mony receaued , or Contract made by Marriage of his Sonne, which may alter the case, and make the Sonne Lord, and the Father to haue but the vse only during his life, as all our common Lawiers well know. In which case,we also haue experience , that our Law permits many times to alter the Title , and to vndoe what by former times was held not to bee controlled. But ofthis point I will not treat. Only I meane to

to argue, whether a Father possessed in Fee-Taile, may in law and equitie, vpon the former considerations, make any child which hee hath, his Heire, leauing to the rest a competency; and doe an Act which according to Equity & Religion may stand good and valuable.

In this my present Discourse let not any expect many Quotations of Authors; for I never read any of this subject. What I bare away of my friends Conference, I will set downe; and what other Reasons my vnderstanding shall afford; which I hope shall proue so Demonstratiue, that they shall bee of Authority sufficiēt * to satisfy any Reader; or incite some better Penne to treat of the same more largely and substantially; and lastly and chiefly, to cleare some of my Worthy Friends from those imputations, which I finde the Ignorant to lay vpon them. Which done, I shall think my Time and Paines well imployed.

* Tis one thing, to convince an error; another, to make men forsake it; A third, to win them to the truth, vid. pag. 117. 2. part of divine Essēce & Attributes;

by Reverend D. Jackson, worthily honord with the Elogie of an Incomparable writer; by M. Pinkē of pious memory. See his Triall of synceritie: serm. 4. p. 57.

C H A P. 2.

That the grounds of all good Constitutions being in Nature, yet she, neither before, nor after the Law of Propriety established, did command, that All should be left to any one, more then to another.

Such are the wise and temperate Works of Nature, † that nothing is done by her rashly or vnadvisedly. For though in the Infancie of

† Natura, Divinitatis ful-
gov. Valles. de
fac. phil. c. 1. p.
22.



of the World , shee had an invincible power to produce all effects which then had their Originall in her : yet, being studious to please Man-kinde not only with variety, but also with raritie, shee successiuely discouers & daily discloses to the searching Wits of the World her Secrets, as Time and Place either hath or doth daily beget Occasion ; still as it were keeping in store her heauenly Treasure , till Mans necessitie best moues her Liberalitie.

For what can the Wit of man devise , or what doth Time or Art make known which good is; that Nature, from the first time shee beganne to worke, hath not in her (though to her selfe only knowne) the ground thereof,either to produce the particullar or generall effect , which wisely shee left to bee tempered, according as the Reason of Man (whose glory she pretends) should thinke fittest to gine the Forime,as Time,Place, and the nature of the Thing should require?

For though Marriage, as it is a conjunction of Man and Woman, containing an inseparable societie of life, be of Nature it selfe, and had its Originall in the state of Innocence, which (as Divines & Canonists hold) was vndoubtedly ordained for Issues sake, whereby a Lineall succession was also intended : yet , vntill necessity enforced Man to make Division of the Blessings of God & Nature, the Clai mes and Rights which follow Lineall succession to Inheritance, were not discouered. For all *communicable* things being common amongst Men, many Ages were numbred from the Worlds beginning,

beginning, before any man laid proper claime to any thing, as due to himselfe alone. Whereby it well appeares, that hereditary succession , or Title to a Parents Lands or Goods, could not then be in vse, or so much as thought of.

This, I perswade my selfe, was the Law of *Nature undepraved*. Which I incline my Will the sooner to credit, because I find that all sorts of people, as well Christians as others , who haue perfection in Naturall society, or a perfect and Religious life in a Naturall and worldly conversation of Mē, haue and doe daily imbrace this naturall and bleſſed Community.

Which happy Law of Nature (as I haue said) for many ages endured, & without doubt had longer continued, had not sinne (which breakes all vniōn, and depraves all Naturall perfection) gotten such dominion in the minds of Men, that in Naturall Equity all things could not longer bee vſed in common.

For as some being posſest with an infatiate desire to get , rule, and raigne ; sought the oppression of others, by taking from theē that freedome which Nature had giuen them: So others giuen to sensuality and idlenesse, sought to liue of other mens labours, whereas by Natures lawes every one ought to liue by his proper industry , within the rules of Justice and Honesty. Wherupon naturall Reason persuaded, that all things being divided, every Man should knew his owne: otherwise, no peace or concord could be maintained in Humane society. For

C.

all

<sup>† See Act 2.
44.</sup>

all things being common, the way lay open to every man at his pleasure to abuse others, & as it were to rob them of God his Blessing.

Hereupon, Aristotle judged the Division of all worldly Goods, to have been agreeable to the law of Nature, which the precept of our Decalogue seemes to approue, *Thou shalt not steale.*

For the Law of God is never contrary to the Law of Nature: neither doth Nature ever contrary it felte, though some may perhaps thinke that herein she hath. For albeit at the Creation of all things together with Man in the state of Grace, a fraternall and amicable Community was intended: yet was it not so absolutely resolued of by Nature, but that by Necessity (I meane by the fall of Man from Gods Grace) she did dispense with this Law, and left free to Mans choice to embrace, vpon her warrant, either the One or the Other, as best might fit the Time, Place, and Natures of Men, which ever since the World began, haue giuen occasion of making of all Lawes.

Whereby we see, that though Nature give the groundsto Lawes, yet Mans ynderstanding still gives the particular Forme. For Nature creating Man, gaue to him those worldly blessings to vle well, with Warrant either to hold them in *Common*, or in *Proper*, as reason from time to time could best persuade his Will.

But, when Reason and Will had agreed, that it was fit that every Man should enjoy his Part in Proper, Nature moued Man further, and told him, that

BROTHERS APOLOGY

that now he might lawfully think on his successi-
on; and not only live in his species, but breath, as it
were, to the Worlds end, in a lineall Posterity by
honorable Deeds and Vertuous Acts; with which
Desire, Nature, as a wise mother, so inflamed Man
(her Noblest Child) after his Fall from Grace, that
some Men by Natures light only, haue done Acts
almost aboue Nature; and none haue hardly beene
so base, but desirous to liue, and leaue an honorable
memory behind them.

Which that they may the better doe, Nature
hath not only giuen them powerto leaue their wel-
gotten Wealth, but in a manner their habituall
* Vertues to their Issue; in which, this worldly Ho-
nor (the Soules worldly life, and Virtue's tempo-
rall Reward) may liue free from all-killing Time.
Yet, did shee not then by any Command, leaue it to
any one in particular, but giuing a generall sug-
gestion of the Finessse of the Thing, left the Forme
to their best Discretion. For had shee not done so,
all Nations had beene tied to obserue one Forme,
in leauing their goods and Fortunes to their Poste-
rities; for Nature being One, without change to all,
of necessity prescribes no binding Rule to any in
particular, but to all in generall; no man being able
to say, This, Natures Law commands me to doe, &
yet binds not any other to doe the like. Which is
evident in the Matter of Succession, or Claimes of
Inheritance; no one Country obseruing the Forme
held by another, or tying it selfe without controll
to obserue its owne, as I shall hereafter declare.

*They which
are deliended
of ancien
Nobility,
have in them
an implancked
compleat Ge-
nerosity (or
vertuous Dis-
position)

ἀντίφυτον, γ
ἅπειρη τιμὴ ἀ-
πειρωτικός. Dio
Caf. Hist. Ro.
I.44. ex Orat.
M. Antonii.

Consule Clas-
sif. V. D.
Zouch, de Ju-
re Feudali. p.
18. & 21.

For albeit (as I haue said) the Conjunction of Man and Woman (which we call Matrimony) together with the Desire of Issue, be of Nature, from whence also are sprung not onely a Division of the Goods and Fortunes of this World, but also a laudable Desire to preserue a Family and Name, by the ordination of Heires to well-gotten Possessions; yet did Nature never set down as a Law, that those Fortunes should be left to the Elder Brother or Younger, or to any One in particular ; or to All; but to whom the Father, being true and free Lord thereof, should best devise by Will guided by Reason. For it was never yet averred by any found Divine, Philosopher, or Lawyer , that Nature makes immediatly Heires, but Men , whom the positive Lawes of every Country ordaine by that Forme and Power of Law, where such an Act should bee done. And this is (I presume) without controll, what the Law of Nature commanded touching the Matter in Question. Next, let vs see, what the Lawes of God doe command.

CHAP. 3.

That the breach of some written Lawes of God, upon warrant of the primary Law of Nature, is without sinne: & that therefore there can be no such Right in Primogeniture, which is not in the Fathers power to avoid, though there were a precept to the contrary, as there is not.

IF Nature, being taken for the principal & all-producing Cause of the whole Frame of the Vniverse,

verse, with all Creatures therein, being nothing else but the working Will of the Highest and first Mover (as Divines & Philosophers hold) then surely must Natures Law bee his Will, which hee cannot contradict or counter-mand, except hee should bee contrary to Himselfe, which he cannot. For, what is in God, is God, therefore Constant and Immutable. Out of which Principle, it is easily proued, that if the Law of God teach that which the Law of Nature hath ordained, the Right of Inheritance cannot be tied to any other person or persons, then to those which the Fathers Will approues, according to the Power giuen him, by the Lawes of Nations where he lies. Which Power deriu'd from Natures Law, cannot erre from the Law of God. For whosoever shall consider but of Gods Commandements giuen to Man, shall well find, that God thereby hath still seconded his former Ordinances giuen by Nature. For so long as Man-kinde liued in a sort, after the Innocence which Gods Grace in his first Creation had wrought in him, God gaue him no other Law: But when as by sinne those sparks which remained after his Fall, were quite extinguished; he gaue him New Lawes, yet agreeable to Nature.

As for example in our present Affaires: When Man had made by Natures privilege partition of Gods and Natures Blessings, then God said to his People by the mouth of Moses, *Thou shalt not steal: Thou shalt not covet thy Neighbours house, his wife, his Ox, his Asse, or any thing that is his.* As also,

Thou shalt not kill. Which with all other his Commandements teaching what finne is , are agreeable to the Law of Nature, yet are dispensed withall, as farre as the Lawes of Nature euer permitted. For, though that the expresse Command of God bee, thou shalt not couet any thing that is thy Neighbours, nor kill; yet, in some Cases, Both may lawfully be done. The one, in extreamie Want of present Food: the other, in defence of Life & Goods; In which, the Law of God , is good by the Originnall Law of Nature, which made All for the sustenance of Man; and gaue leauue to defend Life with with the losse of another's Blood, yea Life, if otherwise it cannot be. Vpon which Ground , I argue thus.

Suppose the Law of God did at this present command (which indeed it doth not) that the Inheritance should be left to any one particular Person, and namely to the Elder-Brother, yet in some Cases it would not binde the Father to obserue it. For as in the former Commandements, vpon some considerations the Commandement may bee dispens'd withall, so in this. For it is not sufficient to be the Elder-Brother , or the neerest in Blood to gaine an Inheritance in the Cale which I haue now proposed; for other Circumstances must concurre, which if they be wanting, bare propinquity or antiquity of Blood may iustly be rejected: & he that is second, third, fourth, fift, or last, may lawfully be preferred before the First, and this by all Law, Divine and Humane, and by all Reason , Conscience,

ence, and Custome of Nations Christian.

For if it should happen that the next in Blood, should be a Naturall Foole, or a Mad-man, or being taken by the Turkes or Moores in his Infancy, and educated in their Religion, would maintaine the same: or if any other such Accident, ministering cause of iust Exception should fall out; is it likely that any Law would allow, that such a man should be admitted to the Inheritance? Wherefore how idly should they talke, that would haue it to bee his Birth-right, or that God & Nature had made him Heire; since neither God nor Nature doth immediatly make Heires, as before is declared. Vpon which Ground, our Common Lawyers say, that No Heires are borne, but Men and Law make them.

I confess, that in Holy Writ, great * Respect is had of the first-begotten, and a Blessing is held to come to Parents thereby. But this Blessing I presuppose to bee, that thereby the Feare of sterility wastaken away, which in the Old Law was held to be a great Punishment of God; & in respect thereof, Parents had of themselues, and by the Nationall Lawes & Customes, a great Regard of their First-begotten, and preferd them to the better part of their Possessions: yet, not by any Command from God, as a Precept to binde his Elect people vnder paine of sinne. For had any such Law bound them vnder such a Penalty; then should it binde all Christians now, on the same Conditions. But we see it by Generall Practise of all Countries to be otherwise:

* In allusion
hereto, the
Church Tri-
umphant is
stiled, The
Church of the
First-borne.
Heb. 12. 23.

wise. Therefore it followes directly, that it was not Gods Command, but a Nationall Law. For God both is, and ever was One, without change to all his People, & so ever were & will be his Laws Positiue, made for them that truly worship him.

The Claine which *Esa*m made to his Birth-right was not by the Law of God, as some ignorantly affirme, but by the Lawes of his Country. For, should the Divine Law haue commanded it, it had been sinne in his Mother and Brother, by Cunning to haue got it from him. Neither could the Father or the State wherein they liued, vpon no just cause knowne but to God alone, without sinne haue settled the same vpon his Brother *Jacob*, as it was, and

^{*Jacob prælatio[n]e divinâ & primogenit[ur]am & benedictionem promeruit (Ita Eximus Præ- sul. D. Episc. Cicebr. Ap. parat. I.)}

as it may seeme, by allowance from God, and as it may bee judged by the successe. Whereby it is thought, that God ordained it, as a Punishment of the One, and Blessing of the Other: which by the permission of sinne to bee committed, God never doth.

Neither did the Nationall Law or Custome of the Iewes (as it is said) absolutely command the Father to leauue to his first begotten, all, or the greatest part of his Goods and Fortunes. But in case he died, not disposing thereof by Act in his Life, or Will at his death, then the Custome ^t of the Nation, laid a double Portion on the Eldest or First-begot, providing for the rest proportionally.

^tViz. Grounded on the Right of Primogeniture. See Deut. 21. 17. and the Geneva note there.

By all which you may collect, that neither the Law of God or Man, in this case, commanded that *Esa*m should haue the Inheritance; but Power to do the

the contrary, was giuen to the Father in his Lifetime, even by the Law it selfe. For many Divines hold that *Esan* selling his Birth-right (as it is termed) sold not Goods, or Lands, but his Claime of being * High Priest after his Father, which by Cus-
tome was to come to him being his Fathers Eldest Sonne. For which Dignity God seeing him vnfit, permitted him to passe away his Right in his Fathers life, as we read in Holy Writ, and which God seemed to approue. And thus I hope this Objecti-
on is answered.

Further, if it were true, that the effect of Eldership were such by the Law of God, as some passionately defend, that is, that the whole Inheritance should of Right pertaine to the Eldest; then sure it followeth by good Consequence, that there should, nor ever could, haue bee[n] but one Temporall Lord of all the World. For of Necessity *Adams* Inheritance should haue gone still to the next in Blood: which how absurd it is, let all men judge.

Moreover, we read, that *Noe* hauing three Sons, and the whole world to leaue vnto them, gaue it not All to the Eldest, but equally divided it among them & their Posterity, as all Authentike Histories doe witnessse.

Againe, God requiring Obedience of Children to Parents, promised a Reward, saying, Honor thy Father and thy Mother, that thy Daies may bee long in the Land which the Lord shall give thee; Which surely was not spoken to one, but to all the Children of men. For with God there is no Excep-

D

tion

* At first, Fa-
thers & their
first borne af-
ter the, were
both Kings &
Priests in
their owne
houses: but in
Moses daies,
this Prerogatiue of Pri-
mogeniture
ceased: *Aaron*
and his Pro-
geny being in-
vested in the
Priesthood, &
Moses being
as King. Deut
33.5. (As ju-
dicious Mr.
Godwyn in
his Moses and
Aaron. Lib. 1.
c.1)

tion of Persons, but as a just and pious Father , hee giues every one according to his Deserts. *Terram autem dedit filiis hominum.*

We read also in Holy Writ, how the Prodigall Sonne being weary of his Fathers house , came to him and boldly said, *Pater, da mihi portionem substantiae mea que me contingit:* This child of which the Gospell speakes, was the younger Brother: yet you see how boldly he said: Give me that Portion of Goods which belongs to me. By which words it is evident, that a Division or Partitiō of a Fathers Fortunes was then * in vse : and that any child as well younger as elder had power by law to demand his Legitimate, or Childs part, according to the nature of the Civill and Canon Law , as you have heard. For the words following in the sacred Text are these, *Et divisi substantiam illis.* And hee divided vnto them his Living. Thus wee see, that the privilege of Eldership was then excluded; which now in our Country by Custome only, is gotten to be of such Force.

But it may be objected , that this was a Parable only (as indeed it was) and cannot bee alleged as Law. True it is, yet it cannot be denied, but that all Similies, Parables, or Examples , which ever were alleged by the wise and learned to represent the Truth, haue ever beeene deriuued from the custome and nature of Things , according to the knowne Truth in that time, and place , and to those persons to whom the Speech or Discourse is directed. And shall we thinke that our Saviour Christ being Wisdome

Luk. 15. 12.

* As is further evidenced Luk. 12. 13. where our Saviour was willed by One, to require his Brother to divide the Inheritance with him. Which was the suit of a younger Brother (agreed at the churliche Iniquity of his Elder.) *The Judgement of that Illustriss & Religi- ous Divine, M. John Hales: the most ex- quisite Illustrator of Chrysostome, published by the Right Noble Knight Sir Henry Savile, now in Glory.*

dome and Truth it selfe, treating of so important an Affaire, as he did then in the Gospell, would vse an vnowne Discourse , or striue to make the Truth appeare to our weake Vnderstanding by a Parable which in Equity could not bee true ? No surely. For it appears by *Solomon* his succeeding his Father *David*, that *David* had power by the Lawes of God and Man, to giue his Kingdome to the worthiest ; which hee deeming to be *Solomon*, gaue to him his Kingdome , though hee was the youngest Sonne.

Neither was there any just exception made against *Adonias* his Eldest Brother, or against some other of his Brethren, why they shoule be disinherited by their Father *David* contrary to the common practise of those Times in setling Inheritances. But the onely knowne reason of this Act in Scripture, was *Davids* Promise, madeto *Solomons* 1.Kings.1. Mother, together with her great Entreaty made to *David* to performe it. Which surely he would not not haue done, had he not found a lawfull Power in himselfe, to haue executed the same.

Lastly, it is invincibly proued out of the Booke of *Job*, who was contemporary with *Moses* (by attestation of judicious Theologians) that there was in those Times and Countries no such Law or Custome, that the Eldest should play at Sweep-stake, and all the rest be left to the foure Windes: for it is expressly recorded in the last Chapter , and the 15 Verse ; that *Job* gaue his Daughters, Inheritance among their Brethren: Which comes home to the Job.43.15.

point in Question, and irrepliably evinces a Fathers Power and Right to make such a Partition of his Estate among his Children, as vpon emergent occasion, he shall judge expedient.

And thus much concerning what may bee said out of Scripture, or Law of God, in our present Question.

CHAP. 4.

That Nations beginning to devise sundry Formes of setting Inheritances, the Romans especially therein respected the free power of Fathers: the right of Children to their Fathers estates, beginning only at their Fathers death.

Auing now declared what the Laws of God and Nature determine of our present Question: we intend to examine in breefe, what is commanded by the Law of Man, as well Civill, of other Nations, as Common, of our owne Countrey. And first concerning the Civill Law.

Thoughall Law, which ever had but the Name or Credit of Law, doth surely deriuue her Originall from the Law of Nature, wherevpon Cicero many hundred yeares since said, that the Ground of all Law-making, is to be taken from the chiefe Law, which was made before any Law was written, or City builded: yet doe they differ much in Forme. For as it is no Law, but Tyranny, which wholly disagrees with the Law of Nature, as Aristotle saith.

so if it agree in All with the Law of Nature , without limitation or difference, it must of Force be the very Law of Nature it selfe ; and not the Law of Man. Which surely is nothing else, then a Temper or Forme of Equity drawne by right Reason from the Grounds of Natures Laws; according as Time, Place, and the Natures of Men either gaue , or shall giue Occasion. For though new Lawes bee daily made of new and severall Accidents , yet all are agreeable to the old and ancient Grounds of Reason in Nature, the Grand-Mother of all Law. Wherefore hauing before specified what the Law of Nature is touching the Point in Question , I shall now declare, what Temper or Forme hath thereto beene added by the Civill Lawyer.

After that Man-kinde was inforced (yet by Natures Warrant) to make (as I haue said) a partition of the Blessings of God and Nature . and that Men were possest by the same Right of Goods & Lands which they desir'd to leaue to Posterity ; Law-makers , and in particular, the Civilian, devised by little and little certaine Formes of Inheritance , and ordination of Heires , at first somewhat rigorous, giving to Parents power of Life & Death ouer their Children , and a free disposition of all their Fortunes to any one of them in his life : but dying intestate, then all which was the Fathers, to be equally divided among the Children , as well daughters as sonnes. Which Constitution was afterward vpon good grounds altered: the Father being bound to leaue every child a Portio , which the Civilian calls a

Legitimate, Others a Patrimony; which at first, was the eight part of the Fathers substance, equally to be divided (as hath beene said:) which after a while seeming little, the Law commanded that the Fourth part should be left without Controll: except vpon just cause the Testator did disinherite him or them who by course of Law were to succeed him: stil vp-holding the former Lawes, that as well daughters as sonnes, should equally succeed their Parents dying intestate; Herein assigning fourteene causes why an Heire might lawfully be disinherited.

Many hundred yeares passed frō the establishing of the Civill Law, before it was ordained by force of Law, that Parents should leaue a Childs part (as it is now called) or that they could not disinherit, without expressing the cause thereof in their last Will: yet, in all this Time, nor till this present Day, the Privilege of engrossing all by *Primogeniture* was not once heard of, or at leastwise not admitted, but rather excluded; as by many Text in the same Law it well appears: The End of the Imperiall or Roman Civill Law, being only to maintaine Morall Iustice in three short Precepts; *Lieu honestly. Hurt no Man. Give every one his owne.* So that hee who obserues these three, fulfills this Law, yeathe Law of Nature, whence this Law is deriuied. Now, if any Brother can proue, that his Father either in his life by Deed, or by Will at his Death, disposing of his Goods and Lands no otherwise then I haue declar'd, doth no act against these three; why should he not content himselfe, either with the Fruits of his Fathers

Fathers loue, or his owne Deserts what ever they bee.

True it is, that in Naturall Justice, children during their Fathers life, haue *Ius ad rem*, not *Ius in re* to a Fathers Goods: Wherevpon the Law calleth them *quasi bonorum Patris Dominos*. Which their Right only takes effect after their Fathers Death. For during life, he hath power to alter, alien, sell, & giue, as it shall please him, according to forme of Law: but being dead without Will, or disposition thereof, they fall vpon his children, according to the Law of Nations. This Law embraceth a two-fold Justice, the one in Exchange, the other in Distribution. The first hath not to doe with our cause: The other * rather commends then condemnes a Father, who vpon good Occasion, that is, for the bad Demerits of his Eldest Sonne; and for the preservation of his Family, shall give or convey his Lands or Goods to the Younger. For the Nature of distributiu Justice, is not only to giue proportionally to the well-deseruing: but also to forbear to place Benefits vpon any one who shall abuse them: or vse them to any other end, then to that good for which they were lent, and hee shall leauue them. And this is *Ius sum unicus tributus*. For no man can give or sell his Goods to an evill end, or to any one, who he assures himselfe, will vse them to the Dishonour of God, or the Wrong of those who shall liue with him, or by him: whereof I will treat more in the seventh Chapter; being thento handle, what a Father may in Conscience doe or not doe,

* This war-
rants not the
injurious Ab-
dication of
vnnatural Pa-
rents; (tre-
mediable by
the common
Law: as is al-
so the oppres-
sion of Or-
phans by lewd
Step-fathers
and sharking
Executors.)

See D. Rid-
leys View (re-
publisht by a
learned Stu-
dent of the
Royall Col-
lege of Christ
Church Ox-
on., part. 4.
Sect. 1. & 2.

in

in our present Question, with sinne & without sin. And thus much of the Civill and Canon Lawyers Averment of an Elder Brothers Right to his Fathers Fortunes.

CHAP. 5.

That the present custom in our Country of giuing All, or almost All to the Eldest, was never so begunne, that it meant to exclude iust Remedies for such Evills, as should grow out of the abuse of that Custome, when it may make Fathers guilty of their Sonnes faults, and of their Families ruines.

 Haue purposely reserved to treat of the Lawes of our Country in the last place, because (I assure my selfe) they are of most force to sway the Point in question. For many things may be permitted by the Lawes of God and Nature, and yet contrarily prohibited, or practised by course of Law, in severall States of the World, as the Law-makers and Customes of Countries allow or command. I confesse, the generall practise of our Time among Parents, is to leaue either All or most part of their Lands to their Eldest Sonne. This questionlesse (as hath beene said) was first devised in former Ages, for the preservation of a Family, and to raise One who might bee a Comfort to his Brothers, Sisters, and Family, and in whom his Progenitors Vertues might liue to the World. And I wil not deny, but the Partition of Lands, may reduce in the

the end, a goodly Estate to Nothing, or to so little, as it may be like an Atome in the Sun; yet I finde in Naturall Reason, that, *ex nihilo nihil fit*, or at least, that

*Haud facile emergunt, quorum virtutibus obstat
Res angusta domi.*----

But if Men faile of those happy Ends, to which this generall Custome should guid, then could I wish, that they would not vse That for their Destructi-
one, cessat
Lex,
on, which was meant for their Preservation. For who sees not, in these our Times, many vnbridled youths so violently carried away with the humour of spending, that they neglect Brother and Sister; yea, bring to extreame misery their Naturall Mothers after their Fathers Death, by their vnthrifti-
nesse. What help for this hath Law left vnto vs? No meanes to bridle these vnruly Colts, if they be-
come Heires according to the custome of our Time? Not truly. For some starting-hole will bee found, to vnty the Knot which a Fathers care once tied. How then? Must many a hopefull and well-
deseruing Brother and Sister, bee left to the Mercy of this Whirlewinde? There is no Necessity. For our Law hath giuen Power to a Father, and Free-
will to dispose of his Owne, according as Reason shall guid his Will, without all obligation to his Heire. Besides, this Custome takes place only after a Fathers Death, if hee dispose not what is his, by Deed in life, or by Will at his Death. But lest my Words bee more generally taken, then they are meant; I meane those Fathers, who are possessest of

their Lands in Fee, or Fee-taile: that is, are absolute of themselues, and haue not vpon good Consideration convaied their Lands from themselues. For all our Lawyers agree, that such Parents may alien, sell, and giue, by power of our Law, their Lands to whom they will, without respect of Person or Eldership.

But may some say, the Custome is otherwise, & this Custome is a Law. True, it is the Custome: But let vs see, whether it binde *sub peccato*, or as a Custome, which rather invites then commands. There was never any Command to tye a Father vnder a Penalty which admits no limitation; but it was euer left indifferent, and then only to take place where former Provision according to course of Law is not made. Then surely a Parent is free from this devouring Custome, and may considerately prevent what Evill it may bring to his posterity: yea, Reason commands it should be so. For, *Inter est Rep. ut quilibet re suā benē vstatu*: It concernes the publike State that Men be *Good Husbands*; saith the Ciuill Law. For if a Man can neither sell, nor set, much lesse can hee giue any thing to another, which he thinkes in his Conscience, will vse it to the Dishonour of God, and the Ruine of himselfe, or others.

Divines hold, that it is not lawfull to sell or let a house to any that hee thinkes assuredly will make therof a Stewes; or to sell, giue, or lend a Weapon to a man who intends therewith to doe murther. Excommunications are imposed on them, who sell

Armes.

Armes Offensiue, or Defensiue to *Turks*, though they bee not assured , they will vse them against Christians.

Thus, we see, the Rule of Conscience, not onely commands a man to vse wel those Fortunes which God hath bestowed on him ; but forbids him , either vpon Affection, or Gaine, to part with them to others who will abuse them , lest hee partake of others sinne: which a Parent may doe after death, who leaues his Lands to a desperate Vnthrift. But, what Religion and Conscience command, shall be declared in the following Chapter. In which, vpon Principles drawne from the former Conclusions, shall be argued , what sinne it may bee contracted by the parting an Estate amogh Sonnes, or by disinheriting an Eldest son vpon just Cause; & to whom the Father is onely tied by the Custome of the the Countrey, without Obligation of Promise , or Contract in Marriage, which may alter the Case.

E 2 CHAP.

CHAP. 6.

That it is no offence before God, for a Father being Tenant in Fee-simple, to disinherit the Eldest, or to parcell his estate upon cause: and that extreme vices of Heires Apparent, together with the fewer meanes which younger Brothers haue now to live on, then heretofore; cryeth out against the contrary opinion.

HE Right of these *in sociable Inheritors*, of which wee now treat, may grow (as I conceaue) from three Titles or Claines, which they may pretend to a Fathers Inheritance, and whereby it may be deemed (as they thinke) finne in a Father, vpon what Desert soeuer, to barre them of the said Right. These three Titles, are *Purchase*, *Custome*, and *Entail*. Of each severally. And of the first, which is *Purchase*. Surely in the Judgement of the Good & Learned, there is no question in Law, or Conscience, but that a sonne joyned Purchaser with his Father, hath *Ius in re*, and by Equity must, surviuing his Father, inherite such Lands as were purchased in their Names.

Now of the other two, though it be as cleere as Noone-light, that a Lord in Fee-simple, or Tenant in Taile, may sel, or give by course of our common Law, at his pleasure all such Lands held by him, in that kind, according to those formes of Law, which the learned in our Lawes haue, and can set downe:

yet

yet there seems to arise a great Difficulty, how such an Act or Acts may in Conscience be executed. I haue heard some say, in this our Case, *summam ius, summa injuria.*

Of these Points therefore I will speake (*Salvo meliori iudicio*) what may in Conscience, vpon good and just Occasion giuen by the Sonne to his Father, bee put in Execution. It is well knowne to all Divines (as I haue said) that Holy Writ hath not prescribed any direct or precise Forme to the Children of God, whereby they are bound in Conscience to dispose of their Lands and Goods, but hath absolutely left them to the Customes of their Country, where any Act of that kinde shall be executed; only as confirming all Formes of Devises which by publike Consent, and Authority, either haue, or shall in rightfull manner bee devised or ordained.

Out of this Ground and others prementioned, let vs examine, whether a Father parting his Fortunes by Power of Law, and on just Cause, shall do a wrongfull and sinfull Act, as some would make it. I confess, that every Act in it selfe, or by circumstance evill, and which vpon no occasion can be justified, is both before God and Man, sinne, and by no meanes to be executed by a Christian. But that the parting of an Inheritance, or Disinheriting of an Eldest Sonne, vpon *just, and evident cause of incapacity*, & according to *Course of Law*, is an Act of that Nature, doth not appeare. For I finde not, that either the Law of Nature or Grace, nor yet

the Lawes of Man , Common, Civill , or Canon, ever forbad such Acts , whereby sinne may bee imputed to those who doe them on good Considerations. Sure I am that the Canon and Civill Law are so farre from forbidding them , that they command, as a Thing in Equity, the Father either to divide his Inheritance, or allow him according to his Affection, to giue to one more then to another: yet with this Proviso , that hee who hath the least, haue his * Childs part; which the Law doth also affigne, except on just desert he disinherite any one : which at this day may , yea must bee by Will , with the cause of Disinherison therein specified. Of which Causes the Imperiall Lawes haue set downe fourteene, as may well appeare to them who are desirous to vnderstand more thereof. So it is evident, that by these two Lawes, no sinne can grow vpon such Acts, being done vpon their Warrant, and vpon such Consideration, as is formerly deliuered.

As for the Common Lawes of our Realme, sure it is, they allow no lesse , and with a greater Privilege. For a Man may by this Law, giue his Lands held in Fee, either by Deed in his life, or by Will at his death, to any of his Children ; yea to a stranger, without rendring a Reason why he doth so. True it is, that a Father not disposing thereof in such sort, Custome giues the whole Estate to the Eldest: yet in some part of our Countrey , the youngest Brother, by custome is to haue the Land, held by some kind of Tenure , if the Father in his life-time dispose not thereof.

As

* Or lawfull Portion: See pag. 61. of Dr Ridleys View illustrated by the judicious Mr Gregory.

As yet therefore I cannot see , how any sinne is committed, or contracted by the former Acts, being neither done against the Law of God or Man , as we haue proued: vnesesse it should be said to bee sin, not to leauie it to the Power of a Custome : which cannot be, except the former Law shall bee proued not to be of Force, and not to be executed ; which can no way be done: Though I must confessle , that the Custome of leauing the Child-estate to the Eldest sonne, hath of latter Times beene much imbraced by our Gentry , for the preservation of their Families, for which it was invented. For the Times haue so ruled, that Men of sort, being either idle, or not possest with a couetous Humour , haue contented themselues with their Fathers Fortunes , and prefer'd their younger sonnes by those meanes which the Times did afford : namely , by many commendable Courses; as either by service of Spiriuall and Ecclesiasticall Persons , whereby many were raised: or by professing a spirituall Life, wherby the younger Brother hath oft-times in Honour slept before the Elder. But this manner of Life , is not so gratefull to our English Gentlemens Natures, as anciently it hath beene.

“ The Trade of the Merchant, the Military pro-
“ fession, the Courtiers life, advanced many more,
“ then now they doe; and lastly , Elder Brothers in
“ former Ages were (generally) of better Temper
“ in spending: and ifthey had no humour to get,
“ yet hadthey a eare to keepe what was left them:
“ and ever held themselues bound by Religion to
provide

"provide for their younger Brothers and Sisters
"left to their Dispose, which now is far otherwise.
"For some Elder Brothers are found to spend
"more in a yeare idly, then would prefer or main-
"taine a whole Family Nobly : and to suffer their
"Brothers & Sisters to shift, which as these Times
"shape, is often-times to liue either *lewdly*, or most
"miserably: * being forced either to forget their
"good Education, or to lay aside all Badges of
"Gentry ; who otherwise with some *reasonable*
"helpes, might doe God, their Country, and Fa-
"mily much Honour.

Since we haue gone so farre, let vs see, on what Ground this Custome first hath risen. Surely for the maintenance of a Family, yet led with an Ambitiō at the Example of Princes, who finding some difficulties in the admitting of many to a Gouvernment, and feeling what Inconveniences the parting of an Estate, brought; devised that One should governe: sometime the Worthiest, sometime the Eldest was Elected, according as the Order was agreed vpon, and yet the other Brothers were maintained like Princes. And this Custome also among them hath beene broken, without Imputation of sinne: For to goe no further then our late Times: 'tis well knowne, that Ferdinand (Charles the fift his Brother) being settled in the Empire, divided his Estate. To Maximilian his Eldest sonne, he left the Empire, with Austria, Hungary, and Bohemia. To Charles his second sonne, Stiria, Carinthia, and other Dominions. And to Ferdinand the youngest,

he

* Strenue
ejurire.

he gaue the Earledome of *Tyroll*. All which, if in his life-time hee had not disposed , had come to the Eldest. Also *Philip* the second, late King of *Spaine*, gaue to his Daughter the 17 Provinces, which were *of Right* to haue descended to his sonne after his Death, if otherwise he had not disposed in his life. And this was adjudged lawfull by Graue Divines, otherwise surely they would never haue done it.

But doth this Custome in meaner Degrees work that Effet which it hath done in them ? No truly. For as we haue proued, it is rather the Overthrow then the Preservation of many Families. Let vs see withall, whether Families flourished not as much, and more then now they doe, before this Custome was receaued.

Livy saith, that three hundred of the *Faby*, all of one Name and Family, issued out of *Rome* Gates at one time, on their owne Cost, for Defense of their City: which was done, before this Custome was dream'd of.

In Scotland three hundred of the Name and Family of *Frasers*, Gentlemen , were at one Time slaine in Fight by their Enemies Neighbours: and 140 Gentlemen of one Name in *Yorkshire* , waited on their chiefe or principal Man of their House, at that time High Sheriffe. In other Countries, many Noble Families from the Romans downward, haue continued where this Custome hath beeene deemed vnjust, as by their Laws is manifest: wheras in our Country, in these our Times , if there bee one Family in a Shire, which is of three hundred

F

yeares

Vna dies Fa-
bios ad bellum
miserat omnes
Ovid. Fast.

yeares continuance, very many others are scarce of
true Descents in a Blood.

Why should our Age then, seeing the Fruit of
this Custome to be so small, embrace it with such
Zeale as to deeme the Breach thereof, being war-
ranted for Good and Iust by the Law of God, Na-
ture, and Man, to be a sinne? Is it held both lawfull
and expedient (in some Countries) for the preser-
vation of a Family, that Degrees of Kindred should
be dispensed with to marry, contrary to Ecclesiasti-
call Canons and the Generall Practise: and can it
be lawfull before God and Man, for the preservati-
on of our Goods, to venture our Liues, and to kill a
Theefe, who shall assault vs, and that perhaps for a
Trifle; and yet that for preservation of our whole
Estate, and perpetuity of a Family, it shall bee repute-
d sinne, to breake a bare Custome, vnder no Pe-
nalty Obligatory, yea alwaies allowed by Lawe.
Never was it heard, that a Custome * was of such
force, to abrogate a Law so farre, that it should bee
deem'd a sinne to follow the said Law, though it
haue Power to dispense with the Law, which other-
wise to infringe, were sinne: especially when as the
the Law is both more pious and more naturall then
the Custome is. For how farre is it from the Law
of Nature, and from the Practise of Paternall Pie-
tyn, the Father dying intestate, the Eldest sonne to
become Lord Paramount of all his Fathers Lands,
& not to be bound by Law to provide for Brother
or Sister, but at his owne good liking? *Aliud Tem-
pus, alias mores postulat.* Men of Virtue, Men of
Learning

* *Customes a-*
gainst Lawes,
are void by the
Civill Law.

Learning & Virtue, both now and in former Ages, * This Ca-
in this our Countrey, haue brok this Custome, * as stome is con-
the World knows, vpon good Consideration, & just trary to the
Causes; not vpon spleene, or false suppositionis judgement &
persuaded to leaue their Fortunes to Strangers, or practise of the
to a lustfull Issue, as some haue done.

intimated, that equa hereditatis portio was usually left by Christian Parents to their Children, and that to doe otherwise, were Grosse Iniquity: Ad Eccles. Cath: pag: 422. 425. Edit: Oxon: Floruit: A° 480.

CHAP. 7.

*That Fathers being Tenents in Fee-taile, may like-
wise without scruple of Conscience, discontinue the
State-taile upon cause; and devise the same as their
reasonable pleasure.*


Aving treated largely, and (as I pre-
sume) proued sufficiently, that Lands
held in Fee-simple, may either bee
parted, or vpon just Cause wholly gi-
ven away to a younger Sonne: I in-
tend now to speake of the lawfull Freedome of a
Father in like sort, and on the same causes, moued
to dispose of his Lands entailed: of which there
seemes more Doubt then of the former.

Every humane Act, which of it selfe is not for-
bidden by the Law of God or Nature, is to bee
judged Good or Evill, Lawfull or Vnlawfull, ei-
ther by the Lawes of the place where the Act is
done, or by Intention of him who shall doe the
Act. For as the Divine Law cōmands somethings

to be done, and other things to bee avoided, vnder
paine of sinne: so the third sort of Actions are left
free (by the said Authority) from sinne; except the
Law of Man prohibite the, & so make them sin: or
else evill Intention make them (being of themselves
lawfull) to be a sinne, and vnlawfull; according to
that Principle of Morall Philosophy, *Finis specificat actum*. For as an Act of it selfe lawfull, done a-
gainst Law is Sinne: so a good Act commanded by
Law, yet done with an evill intention, may be sinne.

From these Grounds, let vs see, whether the
Common Law of our Country, and the Intention
of a Father (which are to bee the Judges of our
Cause) can allow the cutting off an Entaile, the par-
ting of an Inheritance, or (vpon proportionable
cause) the disinheriting of a Son. First it is cleere,
that the Act, of it selfe, by Law may be done: But
whether such an Act bee *summum ius*, which
may be *summa injuria*, that is the Doubt. What
shall be the Triall? By other Lawes, it is either
made lawfull, or left indifferent. Our Law which
makes this Tye, giues leaue to vndoe it without a-
ny exception. *Ergo*, to a good End, and vpon just
Cause, it may be done. It will bee replied, that the
Eldest sonne, during this Entaile, is *quasi Dominus*:
Yet, hauing neither *Dominium directum*, nor *indirec-
tum*, he, during his Fathers life, hath onely *Ius ad
Rem*, and not *in Re*: Wherby no change is forbid-
den to be made by the Father, according to the
Forme of the Law vnder which he lieth, and by
which, the sonne is to make claime, if the Father
create

create no new Estate in his life. For it is lawfull for every Man to dispose of his Owne , as far as the Law shall permit him , if it bee not forbidden by some other Law: but such an A^t is not forbidden by any other Law, *Ergo 'tis lawfull, and no sinne.*

But it may bee said, that the Intention of him who entailed the Land, was, that it should not be vntied, or the state changed. I answer: No A^t done by law, can be free from Change, further or longer, then the Law that made it a binding A^t, shall allow. And it is well knowne to the learned in our Lawes, that every Mans Intention is to be construed according to Law, by which, his A^t and Intentions are directed. Wherevpon, *Civilians* say in like Cases, *Valeat quantum valere potest.* Neither is it thought, that any man who convaileth his Lands by Entail, can intend an A^t beyond Law, or desire that his sonne whom he makes Tenent entale (as our Lawyers terme him) shall in no Case, no not forthe preservation of his Family, or Releefe of many other of his Children, haue power to cut of this Entail, and to be able to alien, sell, or giue his Lands, as Reason, Law, and Religion shall permit. For it may be judged, that hee who doth an A^t to a good End, as namely to preserue his Family, will alwaies assent to another A^t, which shall with better assurance then his owne, strengthen his Intentions.

To the former Considerations wee may adde, what Inconveniences may follow this Generall Position. For if in conscience the whole Inheri-



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To the former Considerations wee may adde, what Inconveniences may follow this Generall Position. For if in conscience the whole Inheri-

* *Agens per
medium, est
minus efficax
in agendo.*

* *Da quæ nō
potes teneare,
vt consequaris
ex quæ non
potes amittre.*

* *Pediſequa
enim plerumq;
no vi bonoris,
et Arrogan-
tia Salv. Ep. 2.*

tance of the Father, is to come without controle to the Eldest sonne, then must it of necessity bee inferred, that the Father, without his Consent, * cannot giue to pious * Vses, or set out for the Advancemēt of his other Children any thing after his Death. So that if God should blesse a Father with many children, and crosse him with as many Misfortunes ; his other Children, and all other his charitable Intentions should be provided for only at his Sonne's or Heire's curtesy. Which how * absurd it is, all men know. For herevpon all Donations to pious Vses, and to younger Brothers for their preferment, may be called in Question.

It is an ordinary thing in these our Times, when the Land is left to the Heire Generall , to alter the Estate, if the Land so covaided that come to Daughters, and to leauie it to a Brothers † Sonne , or some other of the same Name (though peradventure many Degrees remoued) for preservation of the Name and Family. If this may bee deemed lawfull, and no sinne , being done against a well deserving Child, for whom, Nature and her Deserts plead her worthy to be her Fathers Heire : then without all compare, if the preservation of a Name and Family, may justly be labour'd for, according to Power giuen by Law of God and Man; the same may be lawfully acted, against a debauched Heire , who in any reasonable Mans Judgement, is likely in his shrowd to bury the Memory of all his Ancestors Vertues, which should liue in him , and his Progeny, as his Progenitors did in theirs.

† Hebrewes
call a Male-
Child *Zacar*,
a memorall:
because the
Fathers me-
mory is pre-
seru'd in the
Sonne. See
2. Sam. 18. 18

It

It is neither new, nor strange, in the Practise of our Times, in Causes of this Nature, to overthrow intended Perpetuities, and by Act of Parliament to give leauue vpon some good considerations to sell lands, which otherwise by no Lawes can bee sold from the Heire, the Father being but Tenent onely for terme of life. Which surely by no Power vnder God could be done, were the Thing in it selfe,

* See Salvian
ad Ecc. Cath.
1.4.

ynlawfull and sinne; for * *Omne peccatum est Divinitatis injuria:* Whence may bee argued à Fortiori; If power may be giuen to a Father being Tenent for Terme of life, to sell his Sonnes lands, only to pay his owne Debts (peradventure idly made) though it be to the Overthrow, or extreame Diminution of his Family; because Naturall Equity doth will, that every one should be relieved with his Owne, (for so it may bee deemed, though in loue to his Child he hath passed the Estate, yet ought hee to be therewith preserued from Thraldome in his Necessity:) Which if it be so, (as confessedly it is) how reasonable a thing, yea how commendable, and farre from sinne is it , for a Father truely Lord of his owne, without all Tie of Law , Divine, or Humane (as I haue proued) to dispose his Lands , to the Honour of God and Comfort of his Family, to a Younger Sonne , when in all probability, the Elder will neither use it to the One nor the Other , but rather, to wallow in Riot and Sensuality.

† So *salvia-*
nus: Non iniur-
fie testator sa-
piens non re-
linquit, quod
heres impius
non meretur.
Ad Ecc.Cath.
1.3.

CHAP..

CHAP. 8.

*That Vnthriftnesse is one knowne name of many hid-
den sinnes; and is alone a sufficient cause of disin-
herison; proved by the Law of God and Man.*



* Viz: Grounded on the con-
currence of great and vi-
olent Presum-
ptions.

Auing vpon good Consideration enlarged my selfe beyond my first intention, I haue resolu'd, vnder my Readers Favour, & on the precedent Principles, to Argue one Question more, for the accomplishment of this Discourse: viz: *Whether a Father may disinherite his Eldest Son or Heire at Common Law, for such an Vnthriftnesse, as in most mens Judgements, is like to bee the Ruine of his Family?*

Though many toule sinnes, besides the Abuse of Gods Blessings, bee concomitant to vnthriftnesse, yet because they are not apparent to the World (& *de absconditis non judicat Praetor*) I will briefly argue, Whether in Reason, or Conscience, a desperate *Vnthrift* may be disinherited.

It is well knowne to all the Wise & Temperate, whose Judgements Passion doth not ouer-sway, how great an Enemy Prodigality or Vnthriftnesse is to all manner of Goodnesse: and how cunningly she not only hinders the Increase of all Vertues in those in whom she raignes: but also vnjustly oft-times cuts off the vertuous reward of many a worthy Predecessour; yea, giues occasion to the Evill to detract, to the Good to suspect their Deserts. All
which

which, how great a Wrong it is to a Noble Family, I leave to the indifferent Reader to censure. I will not deny but there may bee many sinnes in all Man, which in the sight of God, and iudgement of Men, of themselues are more haynous, and deserue a farre greater Damnation then Prodigality doth: *Those sinnes
more punijba-
bles, which are
more offendue
to common So-
ciety; though
lesse heinous in
their par-
ticular nature.*
yet are sinnes in this World to bee punisht, not as they are in themselues, but as by Circumstances they are offendue to the Society, Peace, and Honour of Man-kind, which God and Nature, ever as the Reward to all Morall Vertues, and as the cheefe End of Mans Life, intended. For otherwise, Vsury, Detraction, Forgery, Adultery, Fornication, Swearing and Drunkennesse, with many more, which are as greevous offences in the Eye of Heaven as Theft, should be punisht with Death, as Theft is. But since they offend not so much the Peace of a publike Weale (at which the Civill Magistrate aymes) as Theft doth; they are not censur'd with such seuere Punishment as it is. All which shewes directly, that Offences by Circumstance are made in a Civill Society against which they are committed, either greater or lesser; and are accordingly to be punisht: and no lesse doth the Reason & right Rule of State command.

Out of which Grounds it is evident, that all Formes of Goverment doe most punish that Offender, who directly or indirectly seekes to disturbe the Peace, or overthrow the Liberty, or disgrace the Dignity of the State where he liues: yet many greater Offences then these may be committed, as

Incest, and Apostasy, which are not so sharply punished by the Civill Magistrate. For every one to whom God hath giuen power on Earth, doth chiefly seeke the End, for which his Power from aboue, is giuen to him; and doth censure and punish in the highest Degree, those Offenses, which tend to the Overthrow of a well-setled State, by good & lawfull Power confirmed.

Now to descend from these Premisses to the Point in Controversy, and to apply what hath been said, to our purpose. It is well knowne to the World, that a Family is a Civill Society, yea the only Common-Weale which God & Nature first ordained; from which, all Societies, Republike, & Species of Regiment tooke their Originall. For the maintenance of which Society, there is no Question, but God hath giuen many Privileges to a Father, as well to reward the well-deseruing, as to punish an evill child or member of his Body: not only by depriving them of their expected Fortunes; but

* Fathers of Families had power to blesse, curse, disinherit and punish with death; as appears by the Examples of of Noe towards Cham, Abraham towards Hagar and Israel, Jacob towards Simeon & Levi, and of Iuda towards Thamar. Gen. 38.24. See Mr. Godwin, ubi supra

by cutting them off from his Body, either by Abdication or Exile, or Death it selfe. For it is cleere by the Civill Law, that a Father had for many yeares, not only free Power to disinherit, but also Power of Life and Death over his Children, who should greivously offend him or his, living vnder his Civill Government. But since that Things vndeownne are growne out of Vse, and may seeme as well incredible, as strange, I cannot in prudence passe ouer the Matter in Question so lightly, as that it may bee worthily subiect to sharp Censure, or rashly branded.

ded with the Marke of Vntruth.

Therefore laying aside the Testimony of the old *Romane Lawes*, in the case of a Fathers Soveraigne Power over the life of his child, given to him by the * *Twelue Tables*, where it is written: *Pater familiæ habeat ius vita: yea, --terq; filium venundandi potestatem;* I will brefely and effectually proue out of the Sacred Text it selfe, what I affirme. There then it plainly appears, that Fathers had Power among the Iewes, to cause their children for Riot, Disorder, or Vnthriftnesse, to be ston'd to Death: Ergo, power to disinherite: For the Greater ever includes the Less. Not to seeme to speake without Booke, it shall not bee amisse to set downe *Moses* words, which are as follow.

*If a Man have a stubbornne and rebellious sonne, that will not obey the Command of his Father or Mother: and being chastised, shall be unreclaimable; they shall apprehend and bring him to the Seniors of that City, and to the place of Justice: and they shall say to them: This our sonne is incorrigible and disobedient, contemnes our Monitions, abandons himselfe to riotous Excesse, and is a Drunkard. The Citizens shall then overwhelm him * with Stones, and he shall dye; that ye may take Evill from among you, and that all Israel hearing it, may feare.*

Whence we may collect, how odious a Crime Vnthriftnesse was among the People of God; and what ample Power the Father had to punish the same in his Child. For if we obserue well the Manner of the Processe betweene the Father and the



* Cap. 3.
Dio. Halicor.
l.2. Anuq.

Deut. 21. 18.

* Stoning was appointed a Death for Blasphemy & Idolatry: which (by co-currence in this case) argues how execrable a Crime Disobedience to Parents is in Gods sight.

Child, in this Case, wee shall finde that the Father was Accuser, Witnesse, and as it were Judge of his owne Cause. For we read not that the *Senators* of the City did give sentence, or further examined the Proothes of the Fathers Accusation: but their Presence giuing as it were Allowance to a Fathers Power, and Intention to punish his Sonne, the People might without more Enquiry, stome to Death so evill a deseruing Child. Which being well consider'd, my Hope is, that it will never hereafter seeme vnlawfull, though somewhat strange, that a Father should disinherite his Eldest, or any other sonne of his, for the Cause only of Unthriftines.

And although the World of Men is growneto that Greatnesse, that it is necessary, One Generall Father, or Politike Head should be in a Kingdome, or State, which may justly abridge some of these Privileges, and abate a Fathers Power (all Fathers being Children to the Father of their Countrey, their Lord and King, vnder God) yet the Power to advance and maintaine a Family by good and lawfull Meanes, is still both allowable and commendable in a Parent; who may from time to time re-

* The Law of Nature, or (as Civilians style it) of Nations [on which a Fathers Plenary Power is founded] is by S Paul expressly termed *The Law of God*.
Rom.1.31.

ward according to distributiu Justice, all thole which liue vnder him, by leauing his Fortunes to them, as in Iustice they shall deserue, and Law shall allow. So that, there is no Question, but hee may still disinherite, according to the power of that Law vnder which he liues. For no other Ty is ouer him: God and Nature *allowing that, at this day, & for ever, which once they gaue vnto him. Which Authority

thority he not only may, but ought also to execute, as farre as the Law of Man shall permit: otherwise he shall erre in his Paternall Iustice.

For a Father is not only to beget and nourish his Children in his life, but by Natures law must provide to his Power, that they liue both in his life & after his death, to the honour of God, the service of their Countrey, and comfort of their Family: which were the only Ends for which God created Man a Civill and rationall Creature. All which, if it shall assuredly bee thought by a Father, that any Child of his will wholly neglect, or rather execute the contrary; then no questiō, a Father is not bound to leave him any more then shall honestly suffice the Necessities of Nature. For (as before is said) no Man may giue or lend his Goods to any one, who will in all Mens Judgements assuredly abuse them.

But let vs see, whether a *desperate Vnthrift* may be arraigned, and adjudged Guilty of these Accusations. Surely, it is cleere, that all vnthrift * courses are displeasing to God, and contrary to his Honour. And how can hee bee able to serue his Country, who in short time will not bee able to serue himselfe with Necessaries wherewith to liue, but must of force bee maintained like a Drone in a Common Wealth, out of others Labours. As for his Family, what greater Discomfort can it haue then an absolute Overthrow? Wherby, the Noble Acts and Honour gotten to it by vertuous Predecessors, are buried in Oblivion; and the present & future Hopes of all worldly and lawfull Honours

<sup>* To play at
way our Pre-
decessors la-
bours ; is a
greater disho-
avour, then to
pisſe on our
parents a-
ches, or raze
their monu-
ments. Carp.
Achitoph. p. 3.</sup>

The life and
soule of a Fa-
mily.

(Vertues temporall Reward) are quite taken away.
And shall not A L L T H I S deserue Disinherison?
Can there bee a greater sinne committed against
the Honour and Essence of a Family , as it is a Fa-
mily, then to be spoil'd of its Honour, and Life it
“ selfe? For in these our Times, well gotten Goods,
“ and vsed as they ought, are the onely Soule , by
“ which a Family, and all the vertuous Acts which
“ it hath done, may lieue.

Since therefore so great a mischefe is sought &
aim'd at in this sinne, surely according to the pro-
portion of distributiu Justice, the greatest punish-
ment is in Equity due to the same, according to the
reason of the Precept, *Ius sumnum unicuique tribue-*
re. Nature teacketh the silly Bees in their Com-
mon Wealth to doe to death their *Drones*, who liue
of others Labours: and shall it bee thought vnlaw-
full for a Father, so to punish an incorrigible Un-
thrift, who will not only liue of others Labours,
but also subvert the honourable Endeavours of his
Noble Ancestors?

Thus if Sonnes may be deemed, and doomed by
the offended, hauing power to doe both, according
as the Offence done against them shall (by circum-
stance) be of Quality(as we haue proued they may
and ought) then certainly it is lawfull for a Fa-
ther soto doe, as I haue formerly demonstrated.

But because Examples in all Controversies of
Fact, are the best Fortifications; I will, in illustration
of the Premisses, adde some few to the former,
drawne as well from Royall Precedents (by whose

Patterns

Patternes --- *totus componitur Orbis*) as from inferiour Persons, whose Qualities best fit the condition of our present subject. And if Kingdomes & Common Weales haue fauour'd it, then certainly, by all Arguments *a majori ad minus*, it may much rather be done, and ought to bee suffered in private Families.

CHAP. 9.

The main points of the Premises exemplified in diuers particular Facts, as well of Princes, as of private Persons.

IT is not fit perhaps to vrge the better Acceptance with God of Abels Offeringe aboue Cains the Elder Brother ; but that Estate which Abel had in Adams Patrimony. Nor will I reinforce Iaphets share in his Fathers Right to the whole World, though hee being the youngest Son of three, had Europe for his Inheritance, which in all Arts, and Vses of Life, farre excells Africk, Asia, and all the rest of the Earth. Whereas, according to the pretenses of those customary challenges, * In this case Sem should either haue had all, or beene Soveraigne Lord of all, and Cham and Iaphet with their Posterity, but Farmers, or Free-holders vnder him.

I will not also (as if there were penury of Resemblances) produce againe Esau's Disinherison, though that * were enough for our present purpose.

For

* In this case God said ex-
prely, The Eller shall serue they ou-
ger. See Gen.
25.23. and
Mal 1.3.
(with the Ge-
neva Note
thera.)

For, had it beeene Sinne (which neither Scripture, nor *Iosephus* in his Antiquities saith) the Mother could not haue procured it, God would not haue prosper'd it; nor *Jacob* himselfe, being a good man, haue accepted it, nor *Esau* (whose anger *Jacob* feare) haue left it vnrevenged. Neither is there in Scripture, nor in any written Law vnder Heaven, any Command to restraine the Fathers Power, but rather the contrary. For such is the Law of Nature, that they who are *ex aequo* one Mans Children, should, if not *ex aequo*, yet not *ex iniquo*, bee prouided for.

Against which Partiality, the Imperiall Lawes admit so forcible a Remedy, vnder the Title of an *inofficious Testament*, as it shall inable the younger Child, to a certaine proportion of estate, whether the deceased Father would or no; if hee had no just reason for omission, or disavowment in his last Will. The Example certainly of the same holy

Ruben.

See Geu.49.

4, & 1. Chro.

5. 1.

Ephraim.

*Gen.48.18.

* Grandfa-

thers are usu-

ally called Fa-

thers in Scri-

pture; special-

ly in respect

of such as in-

herit after

them.

Patriark, *Jacob*, in depriving his eldest son *Ruben* of the dignity of Birth-right (for his enormous offence) and in preferring *Ephraim* before *Manasses*, the younger sonne before the Elder, being his

Grand-children, against the set * Purpose of *Joseph* their Father, seemes vnanswerable on behalfe of

* Parents Power for transferring, or distributing their Blessings. Of which it may be verified: *Qui prior in Benedictione, est potior in Iure.*

Of *Solomon* I haue spoken before, who was not Davids Eldest, but *Adonias*, after *Absalon* was slaine: as *David* himselfe was not the Eldest sonne

. of

of Iesse his Father, but the yongest, and yet* chosen by God (who sees not as Man doth, for with him is no respect of Persons) to governe *Israel*, though he was not set before his Brothers in the private Inheritance of the Family. And in the Gospell it is apparent by the Parable of the Workmen, who came at vnequall houres into the Vine-yard, and yet had equall Wages, that First and Last are to him alike; who though he created Things in number, Weight, and Measure, yet hee squares not his Favours by priority of Being, *but of well-deseruing.

Augustus Cesar, the most Illustrious of all the first Emperours, settled the Imperiall succession, not vpon his only Grand-child *Agrippa Posthumus*, the sonne of his daughter and sole Heire, the Lady *Iulia*, though *Tacitus* saith, he was *nullius flagitij compertus* (then what, if he had indeed beene a notorious Vnthrift?) but vpon *Tiberius*, a stranger in Blood, and his sonne by no other, but by a Civill Title of *Adoption*, because he reputed him farre the fitter to governe.

Chosroes King of Persia, made *Medarzes* his yonger sonne, Consort in his Empire, leauing out his Eldest *Sinochius*.

But to omit forraine Examples (for Brevity sake) wherewith (of all Times and Places) Books are full: In our Country we might alleage the Fact of *Brutus*, the Protoparent of our Nation, who divided *Albion* (afterward call'd *Britaine*) to his three sonnes, leauing only the best * Portion to *Locrinus*, * England. anciently called *Loegria*; *Albania* (now *Scotland*)



* See 1. Chro.
28.4.

* Witnesse
Ismael disin-
herited, and
Isaak (the
younger) pre-
fer'd by Gods
Award. See
Gen. 21.12.
where ver. 10.
& 11. it is
cleare, that

Abraham had
(otherwise)
divided his in-
heritance be-
twixt them.
[Can the
World yeeld a
better Prece-
dent?] N.B.

Brutus.

to *Albanact*; and *Cambria*, or *Wales*, to *Camber*.

Cordella.

Leir, long after, knewe he had so much Power in himselfe as a Father, even against the Evidence of his owne *A&t of Partition*, by the Originall Law of Nature; as for the Ingratitude of his owne Children, to conferre the Kingdome wholly vpon his younger Child *Cordella*, in prejudice of his Grandsonnes, *Morgan* and *Cunedage*, borne of his Eldest daughters.

Roderik.

I know some will giue no credence to *Brutus* Story, which in this case they might with the more Reason doe, if the ancient Weale, or British Custome, were not responsible in the Practise thereof, to that *A&t of Brutus*. For, not only King *Roderik* divided his Kingdome of *Wales* to his threesonnes, (according to that distinction of the Country into *North-Wales*, *South-Wales*, and *Powisland*) but Others since haue done the like among them.

As for *Brutus* History, as it hath some Enemies, so also hath it many Friends, and those of Eminent Worth and Esteeme. *Henry Archdeacon of Huntington*, *Matthew of Westminster*, & others among the Ancient. Of latter Times, *S^r John Price*, *William Lambert*, *Humfrey Lloyd*, *D^r White of Basing-stoke*, Count *Palatine* in right of the Civill Law Chaire (an Honour due to the just Number of yeares by him passed) and innumerable others. Above all the rest, *Edward the first*, King of *England*, with all the Earles and Barons of this Realme, by their Authentike Deed or Instrument, confirmed in Parliament. But to proceed.

They

They who knowe the old Fashions of *Ireland*, either by Tradition, or by printed Statutes of that Nation, can testify of their most ancient Tenure, or Fundamentall Custome, which there is called *Tanistry*.^{Irish Tanistry} By which, the Land and Cheeftry of a Name, after the Predecessors Death, is not awarde^{1. Macc. 1.7.}d to the Eldest sonne, but to the Worthiest (if I mis-remember not) the Judgement whereof is left to the People, and such Tenents as haue Interest & Right of Suffrage: (as *Alexander the Great*, though as 'tis apparent in the *Maccabees*, very falsely is said to haue left his Empire.) And the Customē of e- quall shares may be in other places also, which ne- ver borrowed their equall Partitions from *Gavel- kindē*: A Custome, I grant, which some haue lately alter'd in their private Families by Parliament.

To omit a Number of vnexcep^tionable Precedents and forraine Examples; If *All* must necessarily haue gone to *One*, how came it then to passe, that in this Kingdome, there were at one time, so many Great and Honourable Families of *one Blood*, disjoyn'd in their seats, and distinguis^hhed in their Armories, by different Arguments? Or, who is so meanely scene in our Antiquities and Stories, as not to knowe it was so? And that many renowned Houses (to speake as de magis notis) *Plantagenets*, *Mortimers*, *Beauforts*, *Beauchamps*, *Dela-Poles*, *Nevils*, *Graies*, and the like, haue growne and flou- riſht out of one common common Ancestor? It can never be refelled.

Of Disinherissons in Worthy Families, *Mr
H 2 William*

William Camden Clarenceaux King of Armes (the singular Ornament of England) giues vs two Eminent Examples. (And who is he, that remembers not one or other, in his owne Knowledge, or Acquaintance?)

Carewes.

Jane, Daughter of Hugh Courtney, and Heire to her Mother, wife of Nicolas Lord Carew, disinherited her Eldest sonne Thomas, cum minus reverenter matrem haberet, for his irreverent Demeanour; and parted her Lands(which were goodly) among her three younger sones: of whom are sprung three severall Worshipfull Houses of the Carewes; called Haccombe, Anthony, and Bury. So that God by the successe crowned the Fact, and confirm'd the Lawfulness of Partage.

And this is the first of Mr Camdens Examples.

Brientius de Insula.
The other is this. *Bryand Lyle, or Fitz-Earle, Lord of Abergavenny, hauing two sonnes, both Leprous, built for them a Lazaretto or Spittall: and gaue to Miles Earle of Hereford farre the greatest part of his Patrimony from his Children. The One of these Examples is in the Description of Devonshire; and this other in Monmouthshire. And this may suffice for clearing the former Document (the subiect of this Whole Discourse) by Exemplification.*

CHAP. 10.

*That the Law of Naturall Equity & Reason confirme
iust Disinheritson: and that the riotous lines of El-
der Brothers deserve that vehement Increpation
with which the Author closeth vp this Treatise.*

ET vs now look into the Nature of Equity, and examine whether in Naturall Reason (which is the Law of all Lawes) the Temperate ought to be subject to Intemperate : (I mean, within the Verge of private Families.) Fooles and Frantiks, to whom no Law imputes * Sinne, are not punisht for Theft or Murther, or for any other Offense which they doe, being mad; or vntreasonable. And though humanelly they cannot offend; yet, in **T H I S S O R T** according to Equity, they may be punished. The Reason is: All Law being grounded on Naturall Equity (otherwise it is no Law) doth not only punish Offenses committed; but also prevents Offenses which may be done, by rationall or irrational Creatures. And since Fooles and Madmen cannot offend to be punisht, or by punishment be reformed; and yet they with whom they liue, shall inevitably be offended, if not overthrown by them having * power, (as namely Brothers, Sisters, and their whole Family put in danger of extreame Misery and Ruine) the Law according to all N A T U R A L L E Q U I T Y takes all Power from them.

* Voluntas
crimè non ba-
bet, ubi furore
peccatur.
Salvian.

* Nor thing
more dan-
gerous then ar-
med Madnes.

I haue inserted this clause [according to Naturall Equity] for, that it is against Nature, that Men should be subject to Beasts, or insensible Creatures. Whervpon Aristotle disputing the Nature of Rule and Subjection, saith: that None are borne * slaues, but such as Nature hath abridged of the Use of Reason, who being truly slaues, are vtterly vnfit to gouerne. Upon which Ground, the same Great Philosopher, prefers that Forme of Politie, where the Wildest and Best are admitted to the Manage of State-Affaires: (as at this day is most conspicuous, in the Blessed Raigne * and Regiment of our Most Gracious and Glorious SOVERAIGNE; whom God preserue.)

* Consule Plausus &
Uita Illustrissimi
EQUITIS,
D. Henrici
Wortoni; Viri
omnium literarum, lingua-
rum, ac Virtutum
laude
florentissimi.

But it may be said, What is all this to our Purpose? Yes: thus farre it may bee well applied: If Natures Intent to make all Man-kind, Reasonable, according to their Species, being hindred by some inevitable Accident, shall so blemish and maime Those, in whom such Defect and Naturall Weaknesse shall be found that They (according to Divine and Humane Law) may and ought to bee deprivied of all Right and Claine to any Thing, (more, then to sustaine Nature) and debarred from all Superiority and Seniority, which by Law or Custome might otherwise haue falne on them; (because, according to Naturall and Divine Equity, MAN ought not to bee gouern'd by BEASTS; such as Idiots and Frantiks seeme to be;) If This bee so, as according to Natures Rule it cannot bee otherwise, what punishment shall wee

think

thinkē due to *That Reasonable Creature*, borne in a <sup>The Prodigals Char-
acter.</sup> Civill Society of Men, to whom Nature hath not
beene a Step-dam in bestowing her Blessings; and See more of
whose Name, and Family hath bcene ennobled &
enriched by the <sup>in that Rever-
end and Illu-</sup> Virtue and Industry of many
Worthy Predecessors; who shall through Disfor-<sup>stigious Au-
thor Deno-
citus Junior.
Part. i. Sect. 2.</sup>
der, and inordinate Desires, habituated in him by
Custome and Evill Conversation, become an *Vn-
reasonable and unmeasurable sinfull and shamefull
Creature, a debauched Bedlem, a wild American, a
wilfull and most intolerable Madman, a Thing yn-
worthy the Name of Man; a Prodigall shall I say,
or a PRODIGIE who contrary to all Rule, Law,
or Order of the most Barbarous Society of Men,
takes away (by his outragious Impiety) the Soule
(as I said before) of all his Ancestors; who being
dead, yet long might liue in their * Postery: and
consumes the Womb of his Family (*Viper-like*)
wherein he was borne: and without all Remem-
brance of his obligement to the Dead (whom, as
having his Being from them, he ought to honour) or
Respect to the Living (to whom hee should bee a
Comfort) devoures in some sort, them of his owne
Species, Society, and Blood: All which, the *Cani-
bals* doe not: For though they feed on their Species,
which are Men like Themselues; yet they hunt af-
ter Strangers, and nourish themselues with *Others*
Flesh, obseruing still some Lawe of Society a-
mong Themselues, which our CIVILL MON-
STER doth not. For he, contrary to all Course of
Nature, sucks oftmes the Blood of his nearest and
dearest <sup>Memb. 3. sub-
sect. 13.</sup>*

* The Civill Law appoints Curators for Prodigals (as for Madmen) and Guardians likewise of their Estates: the Want whereof, is the Ruine of many great Houses in England.

See D. Ridley, vbi sup. p. 268

where bee notes a Deset in our Loves, which haue no provisionall order theria.

* Immortalitatem spondet Deus Abram: he] cum Genus promittit. Ambros. Ariotous beire a Civill Monaster.

dearest Friends: namely his *Children, Brothers, and Sisters*: yea, some of these furious Fiends haue brought their *all-tender-hearted Parents* to the Greatest of all Woes, *Beggery in their old Age*. And all this, to maintaine by Force, or Fraud, a *damned Crew of Roring Divils* in the shapes of Men. Of eich of whom, we may say, dividually;

Tali Bacchus erat, tali Gargantua vultu;

Tale triplex mentum Pantagruelis erat.*

So did old *Bacchus*, or *Gargantua* swell;

And such a *Bull-chin*, was *Pantagruell*.

And of the whole Mad-cap-*Faternity* (for they will needs be * *Sworne Brothers*)

Pestis, quâ gelidum Boreæ violentius Axem

Nulla vel infecit, nulla vel inficiet:

A greater Plague to this our Northerne Clime

Never yet came; nor can, in After-Time.

But to returne, from the pursuit of these *salvages*. Nature hath given, yea shee hath so strongly *inhabituated* a laudable Desire in all Creatures to * *preserue* their *Species*; that directly or indirectly to at-

tempt the Contrary, were more then Monstrous Immaturity. Families, be they *Princely, Noble, Gentle, or Vulgar*, are in a sort particular Kinds, or *Species* allow'd of by Natures Law to bee raised, and maintain'd, vnder, or in their cheefe *Genus*, Mankind Universall: which to defeat or overthrow, by irregu-

lar, extravagant, and exorbitant Courses, let the Philosopher, either Naturall or Morall; the Lawier either Civill or Canon; the Divine, Schoolman, or Casuist; judge how punishable.

* *Salvianus* excellently demonstrates this in Bees.
Deguber Dei I. 4. p. 120.

Totus namq; mundus, & totum huma- num genus, pignus est cre- atoris sui . Sal- viam. ubi sup.

Morall Law-makers in ancient Times prætermitted to make Lawes against Offenders of this nature. Being asked Why? They answer'd: That no Man could be so impiously ingrate, or inhumane. Whereby is evidenced, how *transcedently hay-nous* the Offense was adjudged by them, and how severe Punishment (were they to make Lawes in these our corrupt Times) they would prescribe for such *Cardinall Criminallys.*

Thus much for the Ventilation of the present Point in Question. In the arguing whereof, if what I write in defense of Younger Brothers (as here the Case is put) I feeme to haue receau'd *Ex tra-duce*, rather then *Ex certâ scientiâ*, the wiser sort will (I hope) not blame mee. For my Intent was onely, (as at first I promised) to set downe a Table-Discourse, and not a **Controversy** discust in Schooles. If I haue spoken according to Dialecticall Reason (as I beleue) then may I safely thinke, that my Discourse is arm'd with strong Authority. For what hath beene spoken heretofore truely, which Reason hath not dictated to all * Authors Pennes? If therefore I were able to cite a

* Salvianus
in this Case
may speake
for All: Nam

huc omnes admodum filij membrorum parentium esse videantur, non putandi sunt tamen membra eorum esse à quibus affectu experient dispare: quia morum degenerantium pravitate pereunt in talibus beneficis naturae: Though all Sonnes be equally Members (or Portions) of their Parents, yet are not They so to be reputed, that shall by lewd Courses wilfully dismember themselves from them: for , degenerate Conditions render such Children vnworthy of the Benefits of Nature. Salvian de gubern.
De lib. 3°.

Thousand Great Authors for what I haue said, yet
All would amount to no more, but that
which Naturall Reason hath, or may
teach daily. All which, with
my Selfe, I intrust to the
gentle and equall
Censure of my
Courteous
Reader.

FINIS.

*Implumis ales nunquam Cœlum
Omnivago penetrat volatu.*

L A V S D E O R T I E S V M E O .







The humble ²
P E T I T I O N
OF THE
MINISTERS

Of the Church of *England* desiring Re-
formation of certain Ceremonies
and abuses of the Church:
with the

A N S W E R

Of the Vicechancellor, the Doctors, both
the Proctors, and other the Heads of Houses,
in the University of O X F O R D.



Printed Anno, 1641.



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To the Kings most Excellent Maiestie.

The humble Petition of the Ministers of the Church of *England*,
desiring Reformation, of certain Ceremonies and abuses of the
Church.

Most Gracious and dread Sovereigne, seeing it hath pleased the divine Majestie, to the great comfort of all good Christians, to advance your Highnesse, according to your just title, to the peaceable government of this Church and Commonwealth of England: wee the Ministers of the Gospell in this Land, neither as factious men, affecting a popular Partrie in the Church, nor as Schismaticks ayming at the dissolution of the

A



The Petition.

the State Ecclesiasticall : but as the faufull servants of Christ, and loyall subiects to your Majestie, desiring and longing for the redresse of divers abuses of the Church, could do no lesse, in our obedience to God, service to your Majestie, love to his Church, then acquaint your Princely Majesty with our particular griefs. For as your Princely pen writheth, The King as a good Physician, must first know what peccant humours his patient naturally is most subiect unto; before hee can begin his cure: And although divers of us that sue for Reformation, have formerly in respect of the times subscribed to the book, some upon Protestation, some upon exposition given them, some with condition, rather then the Church should have beeene deprived of their labour and Ministry: yet now we, to the number of more then a Thousand, of your Majesties Subiects and Ministers, all groaning as under a common burden of humane Rites and Ceremonies, do with one joyned consent humble our selves at your Majesties feet, to be eased and relieved in this behalfe. Our humble suit then unto your Majestie is, that these offences following, some may be removed, some amended, some qualified.

i In the Church Service.

That the Crosse in Baptisme, Interrogatories ministred to Infants, Confirmation as superfluous, may be taken away. Baptisme not to be ministred by Women, and so explanted. The Cap and Surplice not urged. That examination may goe before the Communion. That it be ministred with a Sermon. That divers items of Priests, and Absolution, and some other used, with the Ring in Marriage, and other such like in the book, may be corrected. The long-somnesse of service abridged. Church-songs and Musick moderated to better edification. That the Llords day be not prophaned. The rest upon Holydays not so strictly urged. That there

The Petition.

3

there may be an uniformity of doctrine prescribed. No Popish opinion to be any more taught or defended. No Ministers charged to teach their people to bow at the Name of Jesus. That the Canonicall Scriptures onely be read in the Church.

2 Concerning Church Ministers.

That none hereafter be admitted into the Ministry, but able and sufficient men, and those, to preach diligently; and especially upon the Lords day. That such as be already entred and cannot preach, may either be removed, and some charitable course taken with them for their relief: or else to be forced, according to the value of their livings, to maintain Preachers. That Non-residency be not permitted. That King Edwards Statute for the lawfulness of Ministers marriage be revived. That Ministers be not urged to subscribe, but, according to the Law, to the Articles of Religion, and the Kings Supremacy onely.

3 For Churchlivings and maintenance.

That Bishops leave their Commendams: some holding Prebends, some Parsonages, some Vicarages with their Bishopricks. That double-beneficed men be not suffered to hold, some two, some three Benefices with Cure, and some two, three, or four dignities besides. That Impropriations annexed to Bishopricks and Colleges, be demised only to the Preachers Incumbens, for the old Rent. That the Impropriations of Laymens fee, may be charged with a sixt or seventh part of the worth, to the mayntenance of the preaching Minister.

A 2

4 For

The Petition.

4 For Church Discipline.

That the Discipline, and Excommunication may be administered according to Christ's own institution. Or at the least, that enormities may be redressed. As namely, That Excommunication come not forth under the name of lay persons, Chancellours, Officials; &c. That men be not excommunicated for trifles and twelve peny matters. That none be excommunicated without consent of his Pastor. That the Officers be not suffered to exact unreasonable fees. That none having jurisdiction or Register places, put out the same to farm. That divers Popish Canons, (as for restraint of marriage at certain times) be reversed. That the long-somnesse of suits in Ecclesiasticall couris, (which hang sometime two, three, fourre, five, six or seven years) may be restrained. That the Oath ex Officio, whereby men are forced to accuse themselves be more sparingly used. That licenses for mariage without Banes asked, be more cautiously granted.

These with such other Abuses yet remayning and practised in the Church of England, we are able to shew, not to be agreeable to the Scriptures, if it shall please your Highnesse further to heare us, or more at large by writing to be enformed, or by conference among the learned to be resolved. And yet we doubt not, but that without any farther processe, your Majestie (of whose Christian judgement we have received so good a tast already) is able of your selfe to judge of the equity of this cause. God wee trust hath appointed your Highnesse our Physician, to heale these diseases. And we say with Mordecai to Hester, who knoweth, whether you are come to the Kingdome for such a time? Thus your Majestie shall do that, which we are persuaded, shall be acceptable to God, honorable to your Majestie in all succeeding ages, profitable to his Church which shall be thereby increased, comfortable

The Petition.

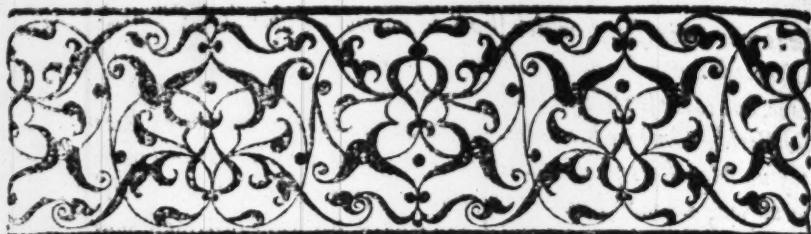
5

ble to your Ministers, which shall be no more suspended, silenced, disgraced, imprisoned for mens traditions: and prejudiciale to none, but to those that seeke their own quiet, credit, and profit in the World. Thus with all dutifull submission, referring our selves to your Majesties pleasure, for your gracious answer, as God shall direct you, we most humbly recommend your Highnesse to the divine Majestie; whom we beseech for Christ his sake to dispose your royll heart to doe herein, what shall be to his glory, the good of his Church, and your endlesse comfort.

Your Majesties most humble Subjects.

The Ministers of the Gospell, that desire not a disorderly Innovation, but a due and godly Reformation.

The



The Answer of the Vicechancellor,
the Doctours, both the Proctours, and other
the Heads of Houses in the Vniver-
sity of O X F O R D,

To the Petition of the Ministers of the Church of
England desiring Reformation.

In their Petition, there are three
principall parts.

1 A Preface.

2 A Complaint consisting of foure speciall points;
In every of them they desire, that certain Ceremonies and
Abuses may be, some of them removed, some amended,
some qualified.

3 A Conclusion.

For answer whereunto:



E most humbly beseech his most excellent Majesty, that it may be considered, how inconvenient and unsufferable it is in Christian policie, to permit a long and well settled state of government, to be so much as questioned, much more to be altered, for a few of his subjects : especially considering the

matter , pretended to be the cause of these mens grief, and of their desired Reformation, unjustly so called. For it is either the *Ceremonies* of the Church, or *Abuses* in the Church, as they allege. Wherein wee humbly recommend to his Princely remembrance.

First, concerning Ceremonies, that they are either superstitious; and then no ways to be admitted. Of which sort it should seem by the Petitioners, (and we are ready to prove) that the Ceremonies of our Church are not. Because these men confess, that in respect of the times they did subscribe unto them : or if they were such, with what cōscience did they subscribe, in respect of the times?

Or else, things in themselves indifferent. And then the supremme Christian Magistrate hath lawfull b authoritie to forbid, and wee must forbear: to command, and wee must obey; not onely for feare, but for conscience sake. Of which kind if these Ceremonies be (as we will justifie, and they cannot deny) where is then their pretended obedience? Where is their applause of his Majesties peaceable government? Why doe they trouble both Church & Commonwealth, in respect of matters which in duty and conscience they may well, and ought willingly to submit themselves unto?

a *Ipsa mutatio
confuetudinis
etiam qua adju-
vavit utilitate,
novitate pertur-
bat Augus. ad
Januar. Ep. 118.
cap. 5.*

b *Melan. in 13
ad Rom. Peccatum mortale est
visuare editio
Magistrat. &c.
Heming. in Syn-
tag. c. de A-
diaph. Qui visu-
lat Ecclesiasti-
cam politionem
peccat multis
modis. &c. Bez.
Epist. 24. ad
artic. 7.*

Secondly concerning Abuses, be it considered: first of what quality they are; secondly, of what degree.

1 Touching the nature or quality of them, whether they are in the very Constitutions of our Church, or rather in the Execution of the said Constitutions. If not in the Constitutions themselves, (as when wee descend to the particulars it will appeare:) there is no cause why the government should be changed; or these men suffered thus to calumniate the St^te, wherein there is nothing *Positive*, that is worthy of blame. If in the Execution; (which as we will not absolutely deny, so these men can- not easily prove,) that may be remedied by amending or removing of some certain offenders, without alteration of the State.

c. citr. ad. A-
nab art. 2. Vtri-
que (sc. Cathol.
& Donatist)
in eodem errore
fuerunt. Quo isti
somniatores, Ec-
clesiam queren-
tes in qua nihil
posset desiderari,
etc.

2 Touching the degree or grievousnesse of these abuses, (whether in the constitution, as they suppose, and we deny; or in the Execution, which simply and in every particular, ' no Church in *Christendome* is able to justifie, and yet none, so much as this of ours :) we under-~~the~~ to prove against the Thousand, that maske unknown under that generality, that they are not such, nor so heynous, as deserve this their bitter reprehension: much lesle such an alteration, in the Church and Common wealth, as would ensue; if these Petitioners might have their desire.

2. In Particular.

Concerning the Preface.

we doe but note.

1 **W**HAT reckoning (in truth) the men doe make; of *justitiae unio Kingdomes*, who favour them so

so much that were wont to subiect all Kingstiles unto popular election and approbation.

2 What comfort (indeed) the Petitioners take in the peace of his Majesties government; who in the very entrance thereof, by seeking this, and the like dangerous alterations, doe disquiet and disturbe the same. Were other men as little inured to peace and subjection, it might occasion some inconvenience.

3 Howsoever in words they decline the imputation of factious men affecting popular parity in the Church, and of Schismaticks ayming at the dissolution of the state Ecclesiasticall; yet it is too well known in this Kingdome, and by experience it hath been felt in that of ^c Scotland, what manner of men they be: as also, what have been the lamentable effects of their Reformation there, and would have been likewise here, had not the prudent foresight and constant resolution of our late gracious Sovereigne continually repressed their attempts.

4 These men might have performed better, Their obedience to God, their service to his Majesty, their love to his Church, (as in the particulars will appeare) if they had forbore to trouble his Majesty, the Church of God, and this Common-wealth, with these their causelesse griefs and discontentments. They have thereby made such a breach as will not easily (without much wisdome and patience) be cured. For what are these men, that they should assume so much? or what are the whole Clergy of England besides, that they should be so abased and contemned?

5 That which they allege out of his Highnesse ^{Excellency seen}, is a childish fallacy; absurdly taking that for granted, which is the mayn question. They must prove

B

(and

^d De jure regi
apud Scot.
^e De juri Magist.
^f in subd.
^g Vind. cont. tyr.
^h Histo. Francag.

ⁱ Basilia, 1587
do E. pag. 39.
40, 41, &c.

F Iuc. Apo. 170
Accesimus quantum maximè potuimus ad Ecclesiam Apost.
 (and not assume) that these are the *peccant humours of this Church*, which in truth is the *f* least *peccant* of any in the World, and would be much *lesse peccant*, if it were cleane purged, of these unquiet and malecontented humours.

*&c.
Et q[ue]d. Ea omnia que aut superflua, &c.
Aut cum sacris literis pugnantia, aut etiam sobrius hominibus indigna, &c.
prosunt sine ulli exceptione reputavimus.*

6 That *diverse of them have formerly subscribed to the booke*, (as skornfully they tearme it) doth manifestly evince, that either our *Liturgie* is justifiable, themselves being Judges; or els that they did liberally dispence with their own consciences, which is not the part of honest men. To doe that *in respect of the times*, which in it selfe is not lawful, proveth little *lesse* then hypocrisie: to alledge unknowne *Protestations, expositions, and Conditions* in their subscription, doth argue no sincerity, and upon due examination, will fall out to be nothing but meere falsitie.

*g Mart. Mar. P. Miles monop.
Hay any work
and the rest of that spirit.*
 7 As for their *labours in the Ministry*, be they such as they are. This Church of England had been happy if it had not beeene troubled with their factious Sermons and scurrile Pamphlets: which have given the Adversary much matter of advantage, distracted the minds of many weake ones, and quite turned some other from the love of the Truth.

8 The number of *more then a Thousand*, is but a vizard, which we humbly intreat, may be pulled from their faces, that we may see and know the men, that thus groane under the yoke of a Christian and commendable government; which (maliciously and injuriously) they would have reputed, *a most heavy burden of humane Rites and Ceremonies*. The vanity of which their complaint, comes now more particularly to be discussed.

Con-

Concerning the matters of their Complaint:

1 Of the Church service.

1 In the Church service we are ready to maintain, (but they must object first and prove the contrary) that the ^a Crosse in Baptisme, ^b Interrogatories ministred to Infants, and ^c confirmation, are most ancient, justifiable, and convenient Ceremonies; and therefore to bee continued.

2 That the Church of England, nor the booke of Common prayer doth not prescribe, that Baptisme should be ministred by women. Though we deny it not to be Baptisme, if perchance *de facto*, it be by them ministred.

3 That the Cap and Surplice be not urged, it is an absurd speech and implies confusion. For so every man should be suffered in that behalfe to doe what him liketh. Again, do not their own words import that they may well be used? but they must not be urged. Why? what is there in a Cap or in a Surplice that should offend any man of judgement.

4 That Examination where need is should goe before the Communion, who disliketh? Or that it be ministred with a sermon? But that it should not bee ministred without a sermon, is absurd; and hath bred in many a vain and false opinion, as if, not the word of Christs institution, but rather the word of a Ministers exposition, were a ^k necessary and an essentiaall part of the Communion. Besides he that readeth our Communion booke, shall see that therein the whole manner, end, and use of that holy Institution, is so excellently described, as may be instead of many Sermons. Also that none should be admitted to

^a Tert. de Cor.
^b Aug. Ep. 23.
^c Hieron. cont.
Luc.

^h chytra. de
Fz. Bap. & in Lev.
Saph. de Bap.
Zungl de Bap.
Hier br. in
Comp. Theol.

ⁱ Buc. de reverst
pag 707.

Pet. Mart. Ep.
ad Hsp.

Aug. Ep. 154.
Calvi. in Ex. 23.

^k T. C. 1. p. 158

that blessed Sacrament (of what age, state, or condition so ever) except they were first examined after the Conistorian fashion, were insolent, injurious, and in many respects most inconvenient.

I *Isay 66. 21.*

Where the *Genewa* note doth shew, that the Ministers of the new Te-
stament are to be termed

Priests.

*" Dicer. in Gen.
sur. cap. 20.*

5 The terms of *1 Priests and Absolution: the * Ring in
Marriage and such other*, which they have heretofore traduced in their unlearned discourses, are by divers of our learned Divines, and shall be justified. As contrariwise by the Petitioners they will never be evicted worthy to be abolished.

6 Their desire to have the long-somnesse of service abridged doth well befit their great Devotion. Who notwithstanding are wont to spend an houre sometimes or little lesse, in extemporary, inconsequent, and senslesse prayers conceived rashly by themselves. From hence, their dislike of set and stinted formes of prayer, it doth proceed, that some of them omit, some refuse to repeat, some condemne the use of the Lords Prayer; from hence hath *Barrow* and *Greenwood* taken their beginning, and fetched the premisses of their pestilent and blasphemous Conclusions.

*in Inst. Mart. in
quest. ad Orib.
q. 107.*

*Aug Confess. lib.
10. cap. 33.*

7 Church songs and Musique are much beholden to these men now: in as much as they can bee content to digest them, so they be moderated to better edification. The time was when wee have heard them speake in this point after another sort. *Meritricious Church Musick,* *Tossing of tennis bals*, and such like were their phrases of Gods divine service: but thanked be God that his Mijesties devout affection in this kind hath forced from them this moderation.

8 That the Lords day be not prophane, hee is verie prophane that desirereth not from his heart. But what manner-

ner of lawgivers are they that lay downe their constitutions in such Negatives, in such Comparatives: for who can divine what they would have, when they desire *that the Rest upon n^o Holy dayes be not so strictly urged*? Would they have men upon such dayes goe to plough and cart, as some of their humor have caused their servants to do, on the very feast of Christs Nativity? Or do they mean, that we should take to our selves such liberty therein, as certain persons lately have done; who being commanded by lawfull authority to celebrate the fifth of *August*, with joy and thanksgiving for his Majesties most strange and wonderfull deliverance upon the said day, did notwithstanding spread the same (as we are credibly informed) in fasting & mourning and such like works of their obedience? Nay, these and the like experiments do cause us, humbly and instantly to desire, that both Sundays and Holydays may be religiously observed, and the intollerable prophanation of them, which is the rather brought in by these mens preachings and examples, may be very severely punished.

9 That there may bee an Uniformity of Doctrine prescribed: That no Popish opinions may be any more taught or defended. What imputations are these? how prejudicial? How injurious? Not only unto the Church government, but unto the Christian faith established in this Realme? What advantage do these men in these shamelesse suggestions reach unto the Papists: as if there were no uniformity, no consent of doctrine among us: (so ye except them.) As if there were some popish opinions taught & defended in our Liturgy: (as they deem who are ready to make every thing p Poperie which they doe not fancie) These are the weapons with which Bellarmine and that

We refer to
the Articles of
Religion a-
greed upon &
establi hed in
Convocation.
Anno 1561.
p 2nd conf.
cap. 24. de Ecc.
Auct. Aph. 19.

that Brood , are wont to wound , or rather falsly to reproach our faith and profession. Good had it beeene that these men had never beeene able to write , rather then to write thus, to the scandal of Gods Church , and his sacred truth.

10 *Reverence done at the name of Iesu*, is no superstition, but an outward signe of our inward subjection to his divine Majestie , and an apparent token of our devotion. Why doe they not likewise finde fault with kneeling, sighing, weeping, lifting up of eyes, knocking of breasts, holding up of hands unto heaven ? All which good men may use in Gods service with great piety, though Hypocrites doe otherwise.

11 They are grossly ignorant if they know it not, or wilfully malicious and turbulent, if knowing it to be lawfull, they yet oppugne *the reading of the Apocryphall Scriptures or Writings in the Church. Non ad confirmationem fidei,*
q Hiero. pref. in sed ad reformationem, or institutionem morum, as the Ancient Pro. Cypr. in Symb. Pollic. pref. in Afor.
q fathers speak and approve. As also the Articles of con- vocation, and the Prefaces before the *Apocryphall* books in the English Bibles, doe directly shew : adding that they give light, to the divine story.

2. Concerning Church-ministers.

I **W**E heartily desire *that able and sufficient men bee admitted into the Ministry. That they preach diligently, and that on the Sunday especially.* But who shall judge of their sufficiencie ? Or doth not the sufficiencie of Ministers *Suscipere magis & minus?* Were the Ministers of the Primitive Church , all of them able to preach ? Did not some of them preach the Gospell,

pell, and other some reade the Scriptures, and administer the Sacraments? Or hath not the urging of that strange doctrine, viz. *That he is no Minister that cannot preach*, first forced men to take upon them to expound Gods Word, that thereby have brought the Word of God, and the sacred exercise of preaching into lamentable contempt, through their absurd, sencelesse, and irreligious glosies, and paraphrases, and discourses: whiles they have chosen rather so to doe, then to be accounted, *Idol-shepheards, Dumbe dogges, No Ministers*, and such like? Secondly hath it not made the *Brownists* confidently to reproach us, that our Church is no Church, our Sacraments no Sacra-
ments, our Prince and people infidels, as not being baptised at all, our Christian Congregations prophane multitudes, &c. onely because some in the Ministry could not nor did not preach? But in this point it would be considered especially, first that it is not possible to have all Ministers men of worth, till all Church-livings be very sufficient to maintaine men of worth. Secondly, that the way to invite men of best parts to take upon them the Ministry, is not to expose and subiect that calling to want and beggary, which in the third part of this their complaint, these men do principally intend. And lastly that howsover these men doe please themselves in their extemporary gift; yet many of them, though in shew very audacious, doe notwithstanding deserve for their grosse ignorance, to be blotted out of the number of preachers, truly so called.

2 How charitable these men are, that would have men removed out of the Ministry, because they cannot preach; (whereas some of them were intreated to take that function upon them, when men more able could not

^t Chrysost in
1 Cor. 1.
Pet. Martyr. in
1 Cor. 1.
Gualt. in 1 Cor. 1.
Cal. in 1 Cor. 1.
Bucer. in Eph. 4.

^f Barrowes
bookes, &c.
Perpetuall go-
vernment of
the Church.
Pag. 339.

^t H. x conf. ex
Helv. Poit.
Dc Minist. ca. 18
Agnosimus, &c.
Vnde n: hodie
quidem rejicimus
simpliciter etem
querundam pro-
bab. &c.

be

be gotten; and others in their yonger yeeres, have beeene of more sufficiency, then now their age, sicknesse, or other infirmitie, will permit them to be :) And how judicious, that would have them to *mainaine preachers*, who (for the most part) have not wherewith for to maintaine themselves, we leave to the consideration of the wise. How much better hath our Church devised, to supply the defects of some men, in some places of meane valew, by other meanes? As namely, 1. By the frequent reading of the Scriptures: A matter more availeable unto faith and godlinesse, then the Petitioners doe imagine; and would be much more, if it were not brought into contempt, by their suggestions. 2. By a most religious and excellent forme of Common prayer. 3. By Sermons and Homilies printed and appointed to be read, both for the confirmation of the faith, and for reformation of manners. All which in a Church not new to be planted, but now setled and well grounded in the profession of the truth, are ordinary effectuall meanes, to continue and increase them, in the true faith and feare of God. Hereunto may be added the manifold provisions in our Church, for sermons quarterly, or more often, in those Cures, where the Incumbents cannot preach.

^{t Lanc. Conf.}
^{obs. in cap 15.}
^{Aph. 10. 11.}
x B. Ridley to
M. Grindall
then beyond
the seas. Alas
that brother
Knox could
not beare with
our booke of
common pray-
er, &c. The rea-
sons he maketh
against the
Letany, &c. I
doe marvell
how he can or
dare avouch
them, &c.

y The bounds
of Parishes are
not *de jure di-
viso.*

3 *That Non-residency be not permitted.* It is a matter of wise and sound deliberation: first, ywhat Non-residence is; for many men in our Church, have two parishes committed to their charge, which both will not make one living. Againe, many have but one parish under them, which yet would require more then two, or tenne men to speake at once to all the Congregation. Secondly it is, and long hath beeene permitted, by wise and godly Magistrates, that have given way to it, by their positive prudent

prudent Laws, as necessary, in some Cases, in a few men, and them (generally and by intendment) of the best deserts. Thirdly that it is absolutely unlawfull, and in no sort to be suffered, neither hath beene proved, nor ever will, by all the Scismaticks in the Land. Ffurthly, in what congruity may he be counted an idle *Non-resident*, that is alwaies present and taketh paines, in some part; and often in every part of his charge; Fifthly, there are not more intollerable *Non-residents* in England, then some of those, that are either included in the Thousand afore mentioned, or that favor this their attempt: Especially if they shall bee measured by those places of Scripture, which they are wont to alledg against *Non-residents* after the Texts be well examined. Lastly, it is not possible (as Church-livings are now * allotted) that simply no *Non-residency* should be permitted, and yet withall a learned Ministery maintained, Princes and Peeres of the Land attended, Colleges and Cathedrall Churches continued, the Universities present, and hope of successsion in them for hereafter, preserved, propagated and supported.

4 *The Marriage of Ministers* wee doe not dislike, but maintain the lawfulness thereof against the Church of Rome: and humbly desire (if there be neede) that the supreme Magistrate, will add thereunto, by his royall authority and the law of the Land, such farther strength and confirmation, as shall seem fit to his high wisdom.

5 Wee know of no subscription that is urged, which is not agreeable to law, required by the orders of our University, necessary in a Christian Common-wealth, profitable for the Church of God, approveable by all judicious learned men, and disliked of none, but of a few folk,

The answer
to the 2. trea-
tise of the Ab-
stract.

To alter the
precincts of pa-
rishes, is a mat-
ter of greater
consequence,
then the Ab-
stractor, or ma-
ny moe such
shallow heads
can possibly
conceive.

that are overmuch addicted to their own opinions. Who
 • The lawes and notwithstanding, where they bear the sway, it is worth
 statutes of Gen. the consideration, how strictly they tie all them that will
 In the form of live among them, to the observation of their Church go-
 Oath, which vernment. And in truth (so the things in themselves be
 the Ministers receive. Sect 2.
 Beza in veta
 Cal. pag. 910. not intolerable) better so, then that which is here pro-
 posed. For the not urging of a conformity in Church
 discipline, is to set open the high way to all disorder
 and Confusion.

3. Concerning Church maintenance.

IHAT Bishops leave their Commendams. In case some
 of the ancient revenue might be restored to
 their Bishopricks, he were utterly unworthy to
 be a Bishop, that would desire a *Commendam*. But, as
 now the most of them are impaired, to take away from
 all Bishops all manner of *Commendams*, is (in truth) to tie
 the Kings hands, that he shall not be able, though he
 would, (and where he will not, no *Commendam* can be gi-
 ven,) to make his most faithfull servants, or other men
 of best desert in the Ministry, able to maintain their pla-
 ces and callings, by his Majesties favor, and gracious dis-
 pensation, when otherwise their Bishopricks are not suf-
 ficient so to doe. So as if it be well wayed, they doe not
 so much intend in this particular to impoverish some few
 Bishops, as indeed utterly to overthrow them, and ge-
 nerally to restraine the Kings Prerogative.

2 Of the same nature is that which followeth. For
 no man, except he be the Kings Chaplaine, may hold
 three Benefices with Cure, and those of his Highnesse own
 gift. So that here also they desire to limit the Kings fa-
 vor:

vour. Againe , it is not known, that there be five in all this Land , that hold three such Benefices. And then what good dealing isthis in the Petitioners, to make the world beleeve, that it is a common fault, which is scarce to be found in a few ?

3 Their disposing of *Impropriations*, doth notably bewray their lacke of Conscience , their little love to learning and Religion , their temporizing and fitting their motions to the Laietie good liking. For who seeth not that it would be the certain overthrow , and utter ruine of *Bishopricks, Colledges, and Cathedrall Churches*, if their *Impropriations should be demised to Vicars or Curats, The Incumbents, at the old rent*, without fine , without improvement? Againe, who be they, and how many, that by this meanes would be provided for ? A few, and those the meanest of the Clergy. But the inconveniences that would hereof ensue , are very many , and intolerable. Therfore we reserve that discourse to a fit opportunity. On the other side, who doth not know, that for a Layman to hold an impropriation (*which is a Tithe*) is originally unlawfull, and cleane contrary to the first institution? Yet these men in all their purity, zeale, and conscience, can content themselves , and their preaching Incumbents, with the seventh part onely of an Impropriation, in a Lay-mans fee.

4 Are these all , or the best meanes, that *a Thousand
mē, such as they would be reputed,* can propose to his Highnesse for the bettering of the Church maintenance? If we might know, that it would stand with his Majesties good liking, and should not be imputed unto us as a breach of duty; It were very possible, that the men whom they so much contemne, would be able to propose some other

The Ecclesiastical discipline.
pag. 114.

The Answer

course for the bettring of the Church maintenance, without the alteration or injurie of any other state.

4 *Concerning Church Discipline.*

UNder the name of their *Discipline*, we have bin herto taught by these men to understand, *The kingdom of Christ upon earth*. A thing of no leſſe importance then the *Goffell of Christ Jesus*; An essentiall part of the *Goffell*. A matter of faith to be received upon paine of damnation: An essentiall marke of the true Church without the which our Church was no Church, our faith no faith, our Goffell no Goffell, &c. And it is now come to be so indifferent, that it may bee administered accordingly; Or else at the least, that these enormities may be redressed? Will it now suffer such an Or else, at the least.

Were we perswaded that their *Discipline*, their *Presbyters*, the life and being of their *Discipline*, were indeed of Christ's institution; were we perswaded it were a part of Gods Word, an essentiall part of his Word; could we be contented to bee without it? Could wee content our selves to live any where but under it? Would we not redeem it with much perill and paine? With certain losse? And that willingly?

But the experience that his most excellent Majestie hath had, of the manifold mischiefs and miseries that attend their pretended *Discipline*, doth make them not dare to speake plainly for it. They therefore faulter in seeking to obtain that, which yet in heart they do affect, and specially desire.

But to these *Enormities*; these *heinous Enormities*. Is it

Eccles. Disci.
pag. 13.
T.C. Epist. to
the Church of
England.

it not well, that now at length, these quick-sighted men can espie no fouler *Enormities* in our Church government?

Enormities.

HAT Excommunication come not forth under the name of Lay persons. First, it may truly be said, that though it did come forth under the name of a Chancellour or a Commissary, yet came it not forth under the name of Lay persons. For a Chancellor or a Commissary is not a Lay-man in this case: The Ordinary and He are but *Vnus Iudex*. Or rather, whatsoever the Chancellor doth in this behalfe, he doth it in the authority of the Ordinary, according to the power that is committed unto him. A thing not unusuall in the Civill state, wherein the Lord Chancellor doth dispose of many things, which are originally in the Crown; and againe, writeth *Tesce meipso* unto many particulars, that never passe by bill assigned.

Secondly, No Lay-Chancelor or Comissary whatsoever doth at any time excommunicate any man; or sendeth out in his own name any excommunication. But this is the practice of the Church of England. In the censuring of notorious and more grievous crimes, the Arch-B^r, the Bishop, the Deane, the Arch-deacon, or a Prebendarie that is a Priest, pronounceth the sentence of Excommunication in his own person. And in matters of lesser offence, as contumacy in not appearing, and the like; the *Viceror-generall, Officiall or Comisstry*, that is not in holy orders, holdeth this course. First, upon knowledg and examination of the cause, he adjudgeth the party worthy

*Constit. Eccles.
1597. cap.de
Excess. circa
Excom.refor.*

to be excommunicated; then the Minister (associated unto him by expresse authority from the Ordinary) doth pronounce the sentence of Excommunication against him; Lastly, the Chancellor sendeth to the Pastor of the Parish where that party dwelleth, requiring him, publikely to declare the said party to be a person excommunicated by the sentence of the Minister his associate. And all this, according to the forme of the Articles set forth by her Majesties authority, *Anno I 597.*

Thirdly, are not these execellent *Enormity makers*, that can finde such an *Enormity* in the *Name of a Layman* (in whose name notwithstanding, the excommunication never commeth forth) when yet, if it did come forth in his name, the nature of the thing it selfe is such, as justly cannot be reproved? They are not ignorant, that excommunication doth proceed as is afore-said; if not in the name, yet in the Authority and Jurisdiction of the Bishop, or some other chiefe Clergy-man, to whom the power of the Keyes doth belong, and unto whom the Church of England hath assigned the execution of that part of our Discipline. Who, if they use the advise and Ministry of a wise and religious Civilian, in decreeing who is to be excommunicate, (whereupon those outward penalties doe ensue, which attend the authority, and follow the sentence of Excommunication, in this Church & Common wealth;) how doth that in any wise violate Christ's institution as touching excommunication?

Lastly, if the Discipline they long for, were once on foot among us, we should then heare tell of certaine *Lay Parsons* that ought to have a principall hand in their excommunications. Thus, as they are weake in judgment for matter of learning in this point, not being able

*Perpetuall
govern, of the
Chu. pa. 320.

to resolve of any thing in certaine ; so are they as partiall in prescribing their plots for matter of practise ; whiles they reprove that in others , which in themselves they doe allow. Except peradventure they will tell us (and we must needs beleeve them) that their *Lay-Elders* become Clergy men *ipso facto*, because they are of their Consistory ; & have voyces (according to their learning) in these Ecclesiasticall censures.

2 That none be excommunicated for trifles and twelve ^{The order of Excom. &c. in} penny matters. They are not. Contempt is then the greater, when the matter wherein they shew their contempt is of lesser valew: As contrariwise, obedience is then more commendable, when it is seen in a matter of greater difficulty. But these men are so accustomed to disobedience, that they account it but a trifle ; And therefore calumniate us and our discipline ; as if with us, men were excommunicated for trifles, when (in truth) they are censured for their contempt.

3 That none be excommunicated without consent of his Pastor. Without consent, is a captious term. For in our understanding, the Minister of the Parish doth give his consent, when he publisheth the excommunication ; as also when he doth certifie what he hath done in denouncing the same. And this manner of consent we take to be sufficient, and as much as is requisite in a private Pastor, that hath no Jurisdiction.

But what is it that these men doe meane? Would they (thinke you) that every Pastor should have a Negative in the excommunicating of his Parishioners? Indoubtedly they would: threby intending the utter overthrow of the present Church government, and in steed thereof the setting up of a Presbiterie in every Parish. Or rather, that

Excom. &c. in
the Church of
Scot. Printed
June, 1571.
Cap. 4.
Thus any small
offence may
justly deserve
Excommuni-
cation, by rea-
son of the con-
tempt & diso-
bedience of the
offendor.

that which is worse (if worse may be) the enabling of every particular Pastour to Excommunicate by himselfe alone.

¹ Perpetuall go-
vernment of
the Church,
pag. 321.

Except peradventure they will say, that the particular Pastor ought to be joyned in cōmission with the Chancelour. And then behold what would ensue. On the Minister, a world of troubles : he must be sent for as oft as any of his parish is presented, he must attend the hearing and debating of the whole cause ; he must be present as oft as the Chancellor sitteth, as long as the matter dependeth, to his great travaille and pains, his excessive charge, and the causlesse neglect of his calling. On the other side, if this Minister will be wilfull, and in fine dissent from the Chancelor in opinion ; then is all the labor lost ; the Judge hath spent his skill and care in vain, and the Bishops Confistory must down to the ground : either Pastor must prevaile, or nothing must be done; To the intollerable hinderance of Justice, and excessive detriment of the plaintiffe. These and the like, are the well advised Propositions, wherof there is store in their Discipline. By which it doth sufficiently appeare, that as yet it is not throughly refined.

³ Constit. Eccl.
1597. cap. de
Feodi squa off.
Eccl.

4 *Extorting of unreasonable fees*, who approveth ? Who disliketh not ? Who would not have it redressed, in any that offend ? Besides there are very severe laws already made in that behalfe.

5 *Farming out of jurisdictions and Registers places*, though we commend it not, nor greatly like of it ; yet it is of it self a matter indifferent ; neither good nor ill, but as it is used.

6 *The restraint of Marriage at certaine times* (falsely called a Popish Canon) was anciently used in the Church

¹ Consil. Laodi.
Can. 52.

Church of God; and being rightly understood, is now commendable in this of ours.

7 *The Long-somnes of Suits in Ecclesiastical Courts,* is a matter of fact, not of Constitution; nor is the fault of the Court, nor of the Judge necessarily (as these men would seem to imply,) but sometime error in pleading, sometime the intricatenes of the cause, sometime the perversenesse of the Clyent, sometime the cunning of the Proctors, are the occasion that suits depend long. And when all is said, that they can say, this is none other fault than is incident to the course of Justice at the Common Law; and might befall their Consistory, or a better and more equall kind of triall.

8 *The Oath ex officio*, is used as it ought, by men of place, of wisdome, and experience; by men of Religion, learning, and conscience. Unto whom the authority to administer it as occasion is offered doth justly belong, not by speciall Commission only, but by the laws of this land, by the two Laws Canon and Civill; and by the warrant of sundry examples of the word of God: as that worthy and learned Dean of the Arches (*the ornament & honor of his profession in his time*) in his judicious¹ Apolo-

¹ The Apolog.
part, Cha 9.
and so forth
to the end of
the same.

gy of certain proceedings in Courts Ecclesiastical, doth prove at large,

² Const. Eccl.
1597. cap. de
moder. indulg.

9 *Licenses for Mariage without Banes*, are most cunctiously granted; and that upon ^m severe punishment to ensue, if so be the Constitution be violated. But what will satisfie these men, who thus intimate unto his Highnesse, that there is rigor in the former point, and negligence in this, when as all moderation and carefulnes is used in them both?

And are not these heynous enormities?

D

Their



Their Conclusion.

THe ilde vaunt that the Petitioners make of being able to shew that these and other such abuses (as they call them) remaining and practised in the Church of England, are not agreeable to the Scriptures, doth appeare to be the more ridiculous; because they have pasted over in deep silence many learned Tracts published long since, wherein their vain fancies, and illiterate objections are refuted at large. It notwithstanding they will yet venture to write, it will be answered; If they will needs argue and dispute, there are ready that will either satisfie them, or by argument silence them. And were it not in regard that we would not seem as undutifull in accepting, as they have been in the offering of this Challenge: it is the thing we would urge, and instantly entreat, that these matters might be debated between us in writing. But in the meantime, what motions are these for the reformers to make unto a most prudent Prince in his settled and peaceable government; who for many years, hath had triall in that his other kingdome, of their pretended reformation; and in this also hath seen the gracious effects under her Majesties late happy Raign of that Church Discipline, which they would ruinate and overthrow.

God hath appointed his Majesty unto this Kingdome. It is true; and we magnifie the goodness of God for it, and congratulate his Highnes in the prosperous possession of it, from the ground of our hearts. But that God hath appointed him to this kingdome for such a purpose as they conceite, what spirit of divination is in them, that they should forespeak it? Nay rather, seeing almighty God hath ordained him as the great Physitian (next and immediately under himselfe,) to take care of the body politique

* The perpet.
gover of Chri.
Chur.

A Survey of the
pret. holy disc.
The answr to
the Abstract.

The Apol. of
certain pro-
ceed in Court
Eccle.

A treatise of
Ecclef. Discip.
De Presbyt. c.
julij; nova &c.

Deciv. Minis.
Evan. grad. &c.
The Remon-
strance.

Querimonia
Ecclesiaz.

The 5 books
of the laws of
Ecclef. polt.

litique, both of his Church and Common-wealth; he will surely cure such diseases, as these men are sick of. (For turbulent and discontented humors are like to breed very dangerous diseases in a civill State:) And not be perswaded (as they fondly imagine) by such suggestions as these, to alter that state of the Church, which is acceptable to God, honorable to his Highnes, comfortable to many thousand Ministers, the Nurse of good learning, admirable to strangers, approved by our * Opposites, envied of our enemies, distastfull unto none, but such as know neither how to rule, nor how to obey.

The very names of punishments are unpleasant indeed, but the things themselves are necessary sometimes, and their effects good and profitable for preservation of the whol; howsoever the induring of them, may be grievous in the particular. And he that will indifferently consider the true causes of the corrections here mentioned; shall have just cause to approve the Justice, * and commend the mildnes, that hath bin used towards this sort of men.

As for that clause of *Mens traditions*, it is too too odious; and would imply Superstition or Popery to be in some of them; But how vainly, and how injuriously, hath in some sort been hererofore declared.

That other of *being prejudiciale to none but those that seek their own, &c.* is as injurious to all the rest of the Ministers of this land. Be we the men that are so addicted to our own quiet, credite, and commodite in the world? Where then be the fruits of our covetousnes, the effects of our ambition, the marks of our idlenes? We be the men, that in the testimony of a good conscience, for the repelling of such a malicious contumely, and slanderous reproach, may truly say; We put not out our money to usury, we detest all fleshly lusts; we contain our selves with-

* The letters
that M^r. Berg.
hath written to
the Arch-bish.
of C. that now
is.

* Conspiracy
for pretended
Reformation.

in our Vocations ; we forsake not our holy callings , we omit not to labour in our severall charges ; we sustaine the places of great labour, travaile, and expense ; we neglect not in publike , in private , in word , in writing , at home and abroad, to put to silence, and stop the mouth of the common Adversary, which these men have enlarged against us, and our most holy faith.

To conclude , the thing they seeke is so prejudiciale, both to the Civill state in generall, and in particular, to so many of the very best of the Ministry; that if it should take effect, but God of his mercy, and the Kings most excellent Majesty in his Christian wisdome, will not suffer it) it would breed a strange alteration in the One; and in the Other it would for the present, not only impoverish us , and our Universities , but make both them and us , and the whol Clergy very base and contemptible in the eies of our own people , as also a by-word and scorne to our neighbour Nations ; And for succeeding ages , it would cut off all hope of a learned Ministry, and of that grounded learning, which as yet is , and heretofore hath been, the glory and honour of this kingdome.

For manifestation of this point , look upon the face of all the reformed Churches in the world; and wheresoever the desire of these Petitioners doth take place, be it duly considered; first, how well their proceedings do suit with the state of a *Monarchy* ; And then, how poverty on the one side , and lack of learning on the other, doth creep upon the whole Clergy in those Dominions.

As to the first : would it not beseeem the supereminent authority and Regal person of a King, to be himself confined within the limits of some particular parish ; & then to subject his soveraigne power, to the pure Apostolicall simplicity , of an over-swaying and all-commanding

Pref-

Presbytery? Would it not do him much good, in a time of need, that his people should be rooted and grounded in this truth; viz. That his meeke and humble Clergy, have power *to bind their King in chaines, and their Prince in linkes of iron?* that is (in their learning) to censure him, to enjoy him penance, to excommunicate him? yea (in case they see cause) to proceed against him as a tyrant?

We speake not here of other points, as namely, that all appeals in causes Ecclesiasticall (and what doe they not make Ecclesiasticall?) must finally lie, not unto the Prince, but unto the Assembly Provinciall; That they allow the supreme Magistrate, *not potestatem juris, but only facti;* while they make him the maintainer of their proceedings, but no commander in them. These and the like, are but petty abridgments of the Prærogative Royall, while yet the King ^{T.C.L. p. 180} *submits his Scepter unto the Scepter of Christ, and licks the dust of the Churcbes feete.*

Neither may it be truely said, that these are only Speculations. There are some of high place yet alive, and other some are dead, that have felt the smart hereof in their own experience, and have seen the worst of all this put in wofull execution.

As to the second. Do we not see it at this day verified among them, which hath been so often truly said, and as often unadvisedly denied, that *honos alit artes;* and contrariwise, where due reward of learning and liberal maintenance of the Ministry, is fraudulently impaired, or injuriously taken away, there Religion and learning com to decay? There Atheisme and Barbarisme and confusio must needs ensue? It is too aparent, that as the revenues of those Churches have been embeazled by men of corrupt mindes, which said in their hearts, as it is in the Psal. 83. 11. *Psalme, Let us take to our selves the houses of God in posses-*

Ecclesiast. dif-
cipl. pag. 114

sion: so the remainder of that grounded learning, which was bred up in former times, is now through succession of time, almost cleane worne out.

Nec bona tam sequitur, quam bona prima fuit.

In somuch, that there is neither sufficient maintenance in those pa'ts, for any store of excellēt learned men, nor yet many men brought up among them in this last reforming age, worthy of that wonted honorable maintenance.

God knows we speak not this with a detracting Spirit but with grief of heart: to see the ruines of the Ministry in particular, and generaly of all profound learning in other reformed Churches. As likewise to stirre up this whol nation to a thankfull acknowledgment of that singular blessing in this behalfe, which God of his goodnes hath long, and yet doth continue unto us of this Realm. And withall, to put to silence the malicious ingratitude of those evill men, which looking upon us & this Church through the colourd glasse of their prejudicte opinions, can see nothing among us *but defects and deformities, and abuses and enormities*, and the like. And therfore in their high discretion, would have us reduced and made conformable to the calamities of other places.

Whereas, in truth, if we shall bring back the eyes of our minds from forrein parts, and indifferently (without either detraction or flattery) take notice of the present state of this Church and Comon-wealth; we shall easily discern, that it were an incomparable happines for them, if all that profess the truth as it is in Christ Jesus, were in our condition.

We shall see, how that our Church government is duly subordinate unto the supreme civill state, and withall doth mightily support the same. That our reverend Prelates

lates (men of singular worth, not to be matched in any one kingdom) though preferred unto highest roomes, doe yet contain themselves within such bounds as preserves that estate from creeping to any Papal corruptions. That our inferior Clergy, by their godly and painfull labors in their vocation, have been and are the most effectuall meanes to settle the tranquility of this land; by inducing mens minds to Piety towards God, Loyalty to their King, and civill honesty among themselves. That our people generally (excepting some few malecontents of all sorts¹, whom wee leave to the mercy of the Magistrate) are inured unto Peace, accustomed to subjection, detest disloyalty, and wth all alacrity yeeld their obedience unto their Sovereign.

That the Colledges, the Cathedrall-Churches, the Bishops and other Ministers of this land, have yet remaining unto them (yet after the many and great spoyles of this Church; which notwithstanding, never prospered with them that got them, but were as rust to the rest of their silver and their gold, or as a Canker, that fretted out themselves, their posterity or their possessions) that yet there is remaining unto them more competent and sufficient maintenance; more comfortable and honorable encouragements, then there are to all other reformed Churches in Christendom.

That answerable therunto (to stop that mouth of ini-
quity, which is wont to traduce us; for ~~a dunbe, unlear-~~
~~ned Idol Ministry~~) there are at this day more learned
men in this Land, in this one kingdom; then are to bee
found among all the Ministers of the Religion in *France*,
Elanders, *Germany*, *Poland*, *Denmarke*, *Geneva*, *Scotland*,
or (to speake in a word) all Europe besides.

Which yet, may not justly be imputed to us for vani-
ty,

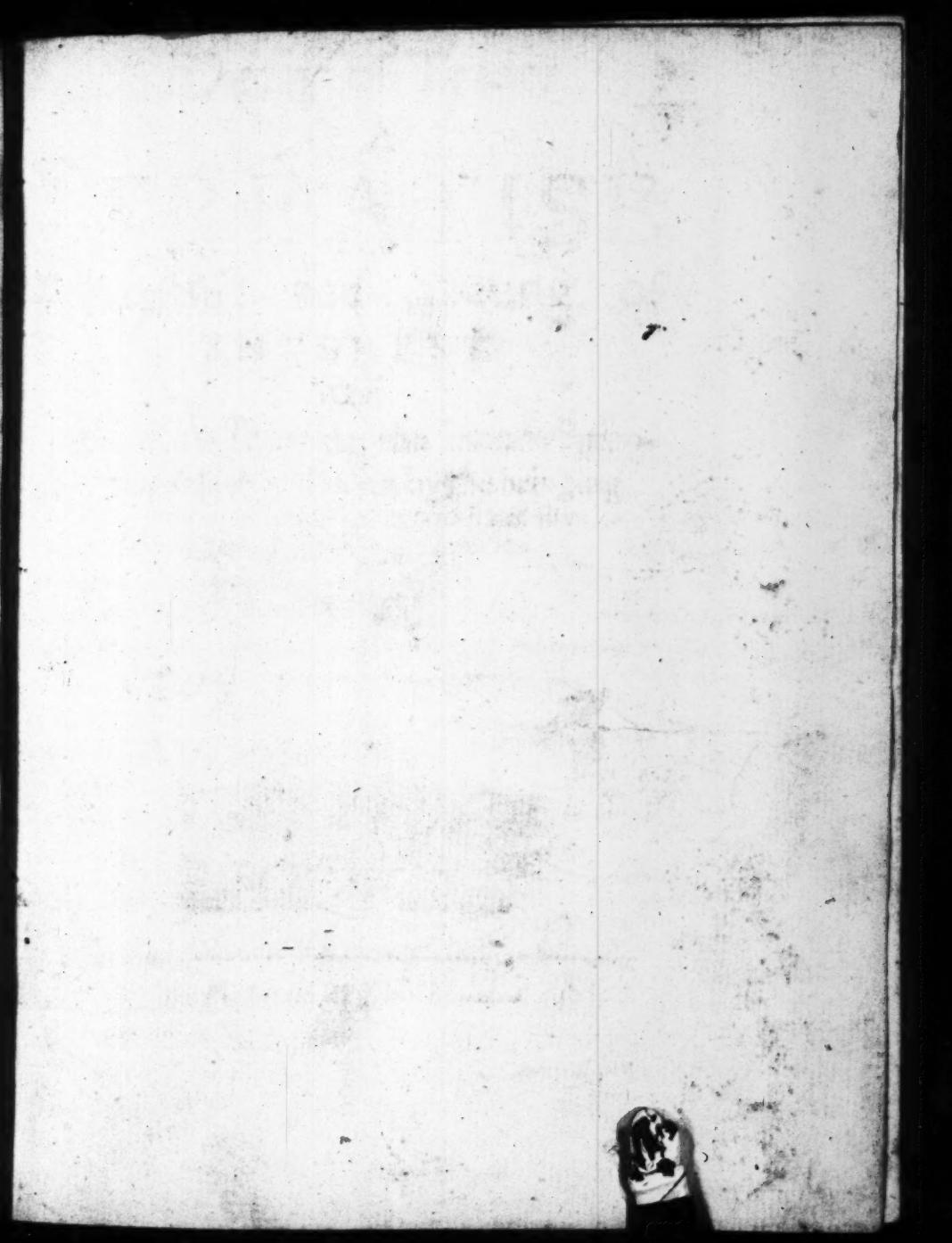

Saravia de fin
c. legius, ca. 9.

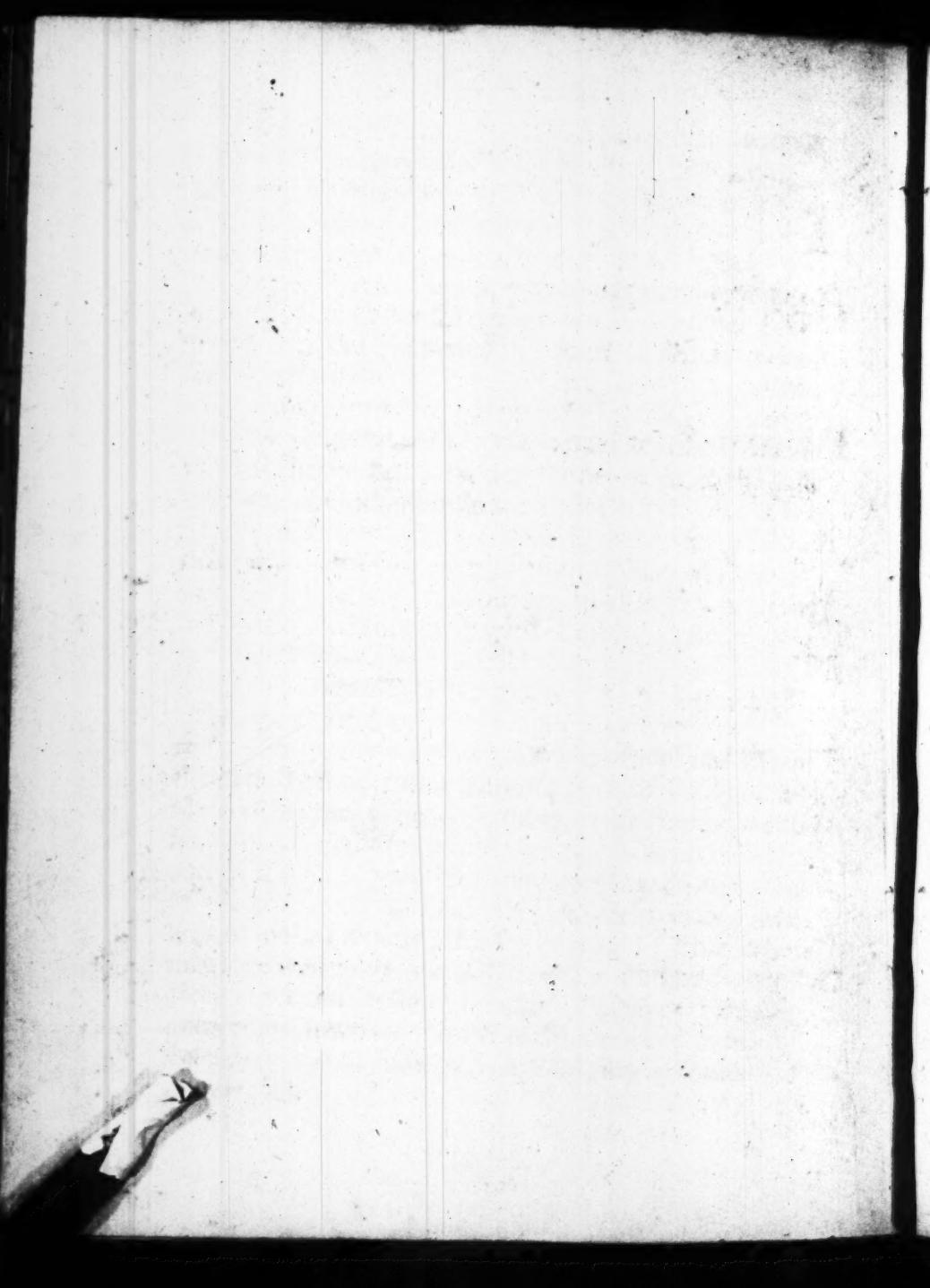
¹ Cor. 9.
² Cor. 5.2

ty, the Apostle that knew how to be abased, and to make himselfe of no reputation ; yet when the impeaching of his personall gifts was abused to the disgrace of his calling ; did without either arrogancy or folly, give his Detractors plainly and roundly to understand, that he was not inferior to the chief Apostles, nay that hee labored more then they all; and so by his own just defence & commendation, did free himself, his worth and his vocation, from their base and odious imputations. In a like case(we doubt not) a truth may be averred of our selves, even by our selves, without any ostentation at all; when it is so injuriously impeached & trodden under foote, to the high dishonor of God, the disgrace of his Gospell, and to the slander of this most Christian Comon-wealth. Yea the rich mercies that God hath continued unto us these 45 yeeres, ought to replenish our hearts with joy, and that our lips should break forth with thankfulnes & sing, *Nos facit saliter omni natione;* neither have the Regions round about vs been made partakers of the like blessings.

Now the father of Mercies, and God of all Consolation, enlarge the wise and understanding heart of our thrice noble King, noble in byrth, noble in wisdom, noble in all manner of good learning; assist him ever with his holy Spirit, the spirit of Councell, of Sanctification and of Truth : make him admirable in the swaying of this Scepter as was *Solomon* in all the world, as long as he walked in the first way of his father *David* : That so hee may long weare this mortall Crown, in all abundance of piety, peace and prosperity, and hereafter obtaine that immortall Crown that Christ hath purchased for them which by continuance in well doing seek glory and honor and immortality.

FINIS.





Decay of Trade.

5

K
A

TREATISE Against the abating of INTEREST.

O R

Reasons shewing the inconveniences which will insue, by the bringing downe of Interest money to six or five in the Hundred, and raising the price of Land in this Kingdome.

By a well wisher of the Common-wealth.



Printed at London for John Sweeting. 1641.



Drama of Life

6

377 A 1971
B. B. and A.
so grande oda flâneur
de Paris

polity, soon got privy to the secret. It
was known that the king had been
secretly married to a woman named
Dame Alice, and that he had a son by
her, whom he had brought up at
the court of France.

... que se ha visto en la llanura.



Reasons Against the Abating the Rate OF INTEREST.

Wherein first is shewed how that it is not necessary to the raising of the price of Lands, for that (beside the too much assistance of accidentall causes) Forraigne Trade may by a more beneficall waye effect the same.



The Purchase and price of Lands in this Kingdome, doth rise and fall by no other wayes and meanes (for the common benefit) then by the profit or losse which is made by the over or underbal-

a The price of our Land may be raised also by a great increase of our people & strangers, which would cause the more consumption of forraign wares, & a lesse Exportation of our own, where by the Kingdome would be soone impoverished.

Reasons against the abating

b We have no
Treasure but
by Trade.

lance of our ^b Forraigne Trade, that is to say, when we bring in and consume yearly a lesse value in Forraigne wares, than we export in our owne Commodities, we may rest assured that the difference is brought in and doth remaine to us in so much Treasure. And contrariwise, if wee consume a greater value in foraigne wares than we doe export of our owne Commodities, Then is our Treasure exhausted to ballance the account with strangers.

Daily experience doth also teach us; that in those Countries where monies are scarce, there the Lands and native wares are ^c cheape, so likewise where money doth abound, there the lands and wares are ^d deare; And thus it appeareth that although this Kingdome may be rich in it selfe, yet it cannot be enriched but by ^e Trade onely, by adding Treasure to our wares, which Treasure being the price and measure of all our other meanes both personall and reall, it doth thereby enable many, and multiply the number of Purchasers, which consequently doth cause the sellers of Lands to raise the price; But if Lands be too much raised, then the proprieties of monies (or many of them) will indeavour to deliver for more profit at Interest, to supply the occasions of those who will employ it in foraigne Trade or otherwise; which doth increase

c Ireland, Muscovia, Poland, the East Indies, and many other places:

d Spaine, Italy, the Low Countries, &c.

e Our wares make us rich, our Treasure doth enrich us.

the Rate of Interest.

3

crease his Majesties Customs and Subjects Imployments.

And if the Rate of the Interest be abated thereby to inforce the monyed men to turne all their meanes into Lands, then many losses will presently follow both to the King and his Subjects ;

The ill consequences of the Abatement of Interest.

First, if we take the businesse as it now standeth in this Kingdome, There are many men who have great summes of ready money, although they have neither Skill nor ^f Will to manage it in Trade of Merchandise, except they should doe it to the ruine of themselves and others also, who have more knowledge and experience; yet their money is still takenup at Interest and imployed by able Merchants to the benefit of the King and his kingdome ;

Much money is put to Interest by the Gentry, Widewives, and Orphans.

Againe, if the Rate of Interest be abated, it will presently decline the quantity of our Trade, for monyed men will find meanes to make it over into the Banks of Italy, and other places, where it may yeeld them greater profit.

^g The Banks of Italy do manage the monies of their Gentry Widdows, Orphans, or who soever.

The prooofe of this Truth is seene in the practice of divers Nations, especially, I will instance the Dutch, whose Lands are ^b little and very deare, because their people are many, and although the Interest usually given in their Country, doth yeeld them at least dou-

^b The Hollanders wealth & foundation for forraign Trade proceeds not from their Native wares, but from their fishing in the English Seas, & other industries which here I omit.

ble

Reasons against the abating

ble the profit of their Lands, yet they convey a great part of their monies into other Countries where they finde most gaine. And it is very probable that at least one third part of all the monies which are delivered in London at Interest, appertaineth to the Dutch, who manage it hereby their Factors.

And if it be objected that it is our prejudice to suffer Strangers to carry away the profit of Interest from his Majesties Subjects, The answer is, that (beside their freedome of Commerce) this losse by Interest is repaid with great advantage to his Majestie in his Customes and Imposts (outward and inward) by the increase of trade, which addeth also unto the Subjects imployment in shipping and diverse other kinds. The Merchant also who disbursteth the Interest to the Stranger, doth thereby reap a greater benefit to himselfe in his trade; which causeth him to take up the money at Interest: All which gaines may import about 40 per Cent. yearly.

Now if the Interest here were brought to a lower Rate, then our Trade would certainly decline, and the afore written profits to his Majestie and his Subjects would be lost; and lands would fall in price. For there is no doubt that not onely Strangers, but also the English would convey their monies and their plate

the Rate of Interest.

plate also (if it be coyn'd into money) into
those Countries where they can finde ground, Turke,
the profit a Norwaway shal be payed ther
out of the same soone as he cometh.

And it is his duty to have obtained that a
low rate of interest for his business
or corporation to have his money go to
his trade.

The answer is already given, that when the Interest is low, the Merchants shall finde little or no mony to take up, which would disaccordate and perplexe others also who are no Traders, and force them daily to sell Lands at low rates to supply their occasions; unto which I adde only, that 2 or 3 per Cent. abated in Interest, is farre lesse considerable in the Merchants gaine than it would prove in the monied mans losse.

I might produce some other reasons to prove that the abating of Interest will carry our money out of this Kingdome, decline our Trade, and bring downe the price of our Lands, see my Compendium for brevity.

B The



**The Interest which is
given in severall Countries.**

12 per cent. yearly.

15 per cent. yearly.

18 per cent. yearly.

20 per cent. yearly.

25 per cent. yearly.

I might perhaps give you some more of these rates, but I will not trouble you with them.

The Exchanges sold daily upon the Fairs of Piacenza and other places, give 8, 9, 10, 11, 12, per Cen. more or lesse according to the times of plenty or scarcity of money in those Countries.

Reasons.

justlye Spides and w^t

the price of Landes shal be raised
to thirtie yeare purchase, whiche will
Reasons against raising
the Price of our
L A N D S.



If the price of Lands should be improved to thirty yeares purchase,^{as} is desired, shall not the fruities thereof, the Labourers hire, the Cartell, and all mens expences bee raised in proportion? Shall not the Native Commodities of this Kingdome, which serve for foraigne trade, as Corne, Wooll, and the like together with their manufactures be proportionably raised? Italy is a rich Country, and very populous, which makes their Land worth neere thirty yeares purchase, whereby also their Corne Victuals, Cloath, &c, are sold at farre greater prices than we pay here in England, where

B 2 Land

Reasons against raising

Land is much cheaper, and the people nothing neare so many in proportion, each Countries bisynesse duly considered.

When our Wares are thus made deare, whether shall we carry them? in what Country shall we vent them? when at the prices they are already raised of late yeares, we finde that the Merchants gaine is so little that many are discouraged to follow their Trade as formerly they did; Is not the use of our Wares in Foyaigne parts much declined, Mines of Lead and Tynne being lately found out in other Countries.

The Company of Merchant Adventurers did heretofore vent fourscore thousand Cloathes yearly in the Nether-lands. And now (since the disturbance by the Project of Dying and dressing of our Cloathes here, which had a faire shew, but a bad effect) they vent not above thirty thousand Cloathes yearly, which it seemeth also they performe to very little profit: For the Netherlanders of late yeares doe make Cloathes as well, and as good cheape as we can doe, with Woolls from Spaine, which are of our English race granted them in the Raigne of King Henry the seventh, and Queen Mary. Now, consider I pray you, how, and where we shall vent our Native Wares, If we raise their price to a higher rate than other Nations carrie and do afford them.

The

the Price of our Lands.

9

The Exportation of our Corne which formerly returned us much money is now totally lost by its dearenesse here, And if our exportations thus decrease daily, how shall we performe our Importations without exacting our treasure.

I must confess that within the time of my remembrance the vent of our Cloth in Turkey is increased about ten thousand Cloathes yearly, but the reason why, is worth our observation. The Venetians for a long time did serve Constanſinople and divers places in Turkie with broad Cloath, untill the English about 50 yeares past, entring into the Trade in those parts, and being able to affoord their Cloth better cheape than the Venetians, they did in few yeares drive them totally from that trade of Cloth in Turkey.

And thus we see by plaine prooſe that cheape wares doe increase trade, and deare wares do not only cause their leſſe consumption, but also decline the Merchants trade, impoverish the Kingdome of Treasure, lessen his Majesties Customes and Impoſts, and abate the Manufactures and Imployments of the poore in Shipping, Cloathing, and the like, which are matters very conſiderable to be well and dueſly ordered for the good of the Common-wealtheſt.

The multitude of strangers which are now in this kingdom do much increase our consumption of ſorta wares & decrease the Exportation of our native commodities, which is a direct way to impoveriſh this kingdom. They also beggar our poore people by depriving them of their manufactures & raiſing the price of corne, victuals, rents, & the like.

• *B.I.N.S.*



The true Copies of the three last Letters,

VVritten by the late Earle of

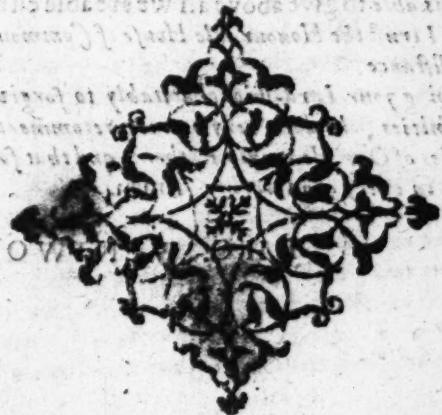
STRAFFORD. *Gentworth*

The one unto his Sacred Majesty.

The other to his Lady in Ireland.

The third to a Lady of great note: Toge-
ther with his owne Elegie, written
by his owne hand, not counterfeit.

With the Psalme that he chose to read
at the time of his death.



Printed in the Yearc 1641.

The Petition Of the Earle of Strafford unto the
Lords Spirituall and Temporall, in this present Parlia-
ment assembled, before he dyed.

Right Honourable.

The bumble Petition of Thomas Earle of Strafford. ¶ We wish
that seeing it is the good will and pleasure of God that your Pe-
restanter is now shortly to pay that duty which we all owe to our
fraile Nature; He shall in all Christian Patience and Charity
confirme and submit himselfe to your Justice, in a comfortable assurance
of the great Hope, held uppon us in the Absence and Adversie of our Sa-
viour blessed for ever.

Only he bumbly craves, to returne your Lordships most bumble
thanks for your Noble Compassion towards those innocent Children;
whom now with his last blessing he must commit to the protection of Al-
mighty God, beseeching your Lordships to finish your Pious intentions
towards them: And desiring that the reward thereof may be fulfill'd in
you, by him that is able to give above all we are able either to ask or
thinke. Wherein I trust the Honourable House of Commons will afford
their Christian assistance.

And so beseeching your Lordships charitably to forgive all his O-
missions and infirmities, be doth very heartily recommend Your Lord-
ships to the Mercies of Our Heavenly Father, and that for his goodness
he may perfect you in every goodworks. Amen.

T H O. WENTWORTH.



A Letter

Dr. Wm. Medd. in battif

A Letter sent from the Earle of Strafford, to his Lady in Ireland, alittle before his death;

May the 11. 1641. or thereabout

So shall receive my deare wife, my last wordynge in absente
last times; my loue I send that you may keepe it when I am
dead, and closed in my coffer, which putt an end to all
worldly cares and miseries which I am subject unto, and
withal take my Counseil, which are the words of a dying man,
which ought to make a deeper impression both of you that read my Let-
ter, and also of the hearers, that both you and they may remember it the
better, when I am no more. I would not wish my will present you frowns
(dear wife) let them go to the Grave with me, and be buried in the dust:
And seeing it is not the will of God, that I shall see you any more, bear
my distraction and sad disaster patiently, & with an heart like your self.

First, I send you all the thankes which my heart can conceive or my
words expresse, for your many travales and cares for me, which though
they have not taken effect, as you wished, yet my debt to you is no lesse;
but pay it I never shall in this world.

Secondly, I beseech you for the loue you bare me living, than you
do not obscure your selfe many daies, but by your travaille seek to helpe
the miserable fortune and the right of your poore children, your mour-
ning cannot availe any thing that am but dust, and I hold it kinde of tray-
tor to over grieve for those that are gone to rest in the Lord.

Thirdly, you shall understand that my Lands were conveyed (bona
fide) unto my Son, the wrisings were drawne at Midsummer was twelve
month, as dovers can witnessse; to what friend to dwell you I know not,
for all mine have left me in the true time of triall: such is this worlds
friendship, in the time of a mans greatest necessity: most sorry am I that
being thus surprised by Death, I can leave you no better estate; G O D
hath prevented all my determinations, that same great and Almighty
G O D that worketh all in all: and if you can live free from want,
care for no more, for the rest is but vanity. Love God and begin be-
times to seeke and know him, so shall you find true everlasting comfort,

when you have travailed and wearied your selfe with all sorts of worldly cogitations, you shall sit downe with sorrow to the end: Teach your Son also to feare and serve God whilste he is young, that the feare of God may grow up in him; then will God bee an husband to you, and a father to him, and a husband and a father that never can be taken away from you.

Balo owe to me 1000. pound, and Arian 1000. pound, in Iernsey I have also much owing me.

Deare wife, I beseech you for my soules sake, pay all poore men to whom I am indiptid, when I am dead; no doubt you shall bee much sought unto, for the world thinkes I was very rich. Have a care to faire pretence of men, for no greater misery can befal you in this life, then to be a prey unto the world, and after to be despised. I speake God knowes, not to dissuade you from marrying againe, for that will be the best for you, both in respect of God, and of the world. As for me, I am no more yours, nor you mine; Death hath cut us asunder, and God hath divided me from the world, and you from me. Remember my child for his fathers sake, who loved you in his happiest estate. I sued and have pleaded for my life, but God knowes it was for you and yours that I desired it; forke on it, my deare wifc, your childe is the son of a true man, who in his owne respect despiseth Death.

I cannot write much, God knowes how hardly I steale time, when all are a sleepe; and it is also high time to separate my thoughts from the world, Beg my dead body, which living was denied, and either lay it,

A village in Aleaunc or Arreley by my father and mother. I can say no more, worth Woodcuse finishe, inscrutabla God Almighty, who is goodnes it selfe, the true in torke light and life, direct and keep you and your, and have mercy upon me.

My deare wife, farewell. Lord Almighty blesse my young sonne: Pray for me: and let my true God whom I serve, hold you both in his armes, vale, vale, vale.

THE

The Earle of STRAFFORD'S Letter, to his most Excellent Majestie, dated from the Tower, 4. May, 1641.

May it please your sacred Majestie,

I hath been my greatest grieve in all these troubles, to betaken as a person which should endeavour to represent and sett things amiss between your Majestie and your people; and to give Counsells tending to the disquiet of the three Kingdome.

Most true it is, that this mine owne private Condition considered, it had bee ne a great madnesse, since through your gracious favour I was so provided, as not to expect in any kinde to mend my fortune, or pleate my minde more, than by resting where your bountious bands had placed me.

Nay, it is most mightily mistaken, for unto your Majestie is well knowne, my poore, and humble advises concluded still in this, That your Majestie and your people could never bee happy, till there were a right understanding betwixt you and them: no other means to effect and settle this happiness, but by the Councell and assent of the Parliament; or to prevent the growing evills upon this state, but by intirely putting your selfe in the last resort, upon the loyalty and good affections of your English subjects.

Yet such is my misfortune, this truth findeth little credit, the contrary seemeth generally to be beleaved, and my selfe reputed as some thing of separation between you, and your people; under a heavier censure than which, I am periwaded no Gentleman can suffer.

Now I understand the mindes of men are more incensed against me, notwithstanding your Majestie hath declared, that in your Princely opinion I am not guilty of Treason, nor are you satisfied in your Conscience to passe the Bill.

This bringeth me into a very great straignt, there is before me the ruine of my Children, and family, hitherto untouched, in all the branches of it with any foule Crimes. Here is before me the many ills which may befall your sacred person, and the whole kingdom, should your selfe and Parliament part lesse satisfied one with the other, than is necessary for the preservation both of King and people. Here are before me the things most valued, most feared by mortall man, *Life, or Death.*

To

To say Sir, that ther hath not beeene a strife in mee, were to make
me lesse man, then God knoweth, mine infirmities give me. And to
call a destruction upon my selfe and yong Children, where the intentions
of my heart, at least have beeene innocent of this great offence,
may be belieded, will finde no easie consent from flesh and bloud.

But with much sadness I am come to a resolution, of that which I
take to bee best becomming me, to looke upon that which is most
principall in it selfe; which doubtlesse is the prosperity of your
G-
ered person, and the Common-wealth, infinitely before any private
mans interest.

And therefore in few words, as I put my selfe wholly upon the
honour, and justice of my Peeres so clearly, as to beseech your Ma-
jesty might please to have spared that Declaration of yours on Satur-
day last, and intirely to have left me to their Lordships; so now to
set your Majesties conscience at liberty, I doe most humbly beseech
your Majesty, in prevention of mistakes which may happen by your
refusall, to passe this Bill; And by this meanes remove (praised be
God) I cannot say, this accursed, (' but I confess) this unfortunate
thing forth of the way, towards that blessed agreement, which God
I trust, shall ever establish between you and your Subjects.

Sir, my consent shall more acquit you herein to God, than all the
world can doe besides. To a willing man there is no injury done.
And as by Gods grace, I forgive all the world with a calmnesse and
meeknesse of infinite Contentment to my dislodging soule; So sir, to
you can I give the life of this world, with all the cheerfulness
imaginable; in the just acknowledgement of your exceeding fa-
vours. And onely begge that in your goodness you would vouchsafe
to cast your gracious regard upon my poore Sonne, and his three Si-
sters, lesse or more, and no otherwise, then as their (in present)
unfortunate father, may hereafter appeare more, or lesse guilty of this
death.

God long preserve your Majesty.

Your Majesties most faithfull, and
humble Subject, and Servant
Tower. STRAFFORD.
4. May 1641.

A

A Letter sent unto a great Lady, and lately discovered by a strange
accid. nt. May the 4. 1641.

Madam:

Although there be some discovery made knowne, yet what is intended is made secure; wherefore you must procure two thousand pound speedily; for no danger lets difficultie to compasse it, if you keep secret: Remember your oath, for we shall slay the Beast with many heads, and destroy the Devils brood before they dreame or mistrust. Burne the letter you have received, your reward shall be in Heaven.

The 5. Psalme he chose to read upon the Scaffold, at his death.

D onder my words, O Lord : consider my meditation.

P 2 O hearken thou unto the voyce of my calling, my King, and my God : for unto thee will I make my prayer.

3 My voyce shal^t thou heare betimes, O Lord : early in the morning will I direct my prayer unto thee, and will look up.

4 For thou art the God that hast no pleasure in wickednesse : neither shall any evill dwell with thee.

5 Such as be foolish shall not stand in thy sight : for thou hatest
all them that work vanitie.

And so he read forwards to the end of the Psalme,

An Ellegy written by himselfe a little before his death.

Farewell vain world, farewell my fleeting joyes,
Whose best of musick's but an Echo's noyse,
And all the lustre of your painted lights
But us dull dreams and fantroms of the night.

Employ your pleasures too, nor can they last.

Longer than ayri-puff bubbles, or a blast.

Farewell you fading Honour, which doe blinde,

*By your false insults the sharpest sighted mind,
A little while may be made blind.*

And having pass'd him to his height of care,
To make him understand, who did him wrong.

Tumble him headlong downe the slippery stairs,
How art thou Yorval? your election ill.

How shall I praise or prize your glorious sun,
Which doth the world in his golden raiment.

which are but poison past its golden peak.
Extremely much bettering it is we're come

You're shield my safety until my wings crack

Item de juxta mea fuit James natus in die myriam secundum regnum eius.

10

And made my Vessel reel against the rocks
Of gaping ruine, whose destructive knobs
Hath helpt me, lost me, sinking, here so long :
The cause ? I rais'd my main-top sailes too high.
Farewell Ambition (since we needs must part)
Thou great Inchanter, &c. of man's greater heart :
Thy gilded riſes that doe seeme so faire,
Are but like mirrours hanging in the ayre :
In whose falſe splendor falling idorne is found
No worth, but water-like ſhed on the ground.
Farewell the Glory, from which all the reſt
Derive the sweets for which men ſile them bleſſed,
That from one root in ſeverall branches ſpring,
I m. ane, the favour of my gracious King :
This too, hath led my wand'ring ſoule aſtray,
Like Ignis Fatuus, from its righter way.
Farewell my Friends, I need not bid you goe ;
When Fortune flies, you freely will doe ſo.
Worſhip the rising, not the ſetting Sun.
The Houſe is falling ; Vermin quickly run.
Bees do from off the wither'd flowers make haſte ;
The reaſon is, Because th' ave lost their taſte.
Farewell the treasures of my tempting store,
Whiſch of all Idolls, leaſt I did adore :
H ſte to ſome Idols Coffe, and haſt bee
Thy ſlave, as I have master beene to thee.
Heaven knowes, of all the Suitor that I had,
I leaſt prix'd thee, as counting none ſo bad.
Last to my Foes farewell : for ſuch I have,
Who do in multitudes wait for my grave,
Amongſt which I can't believe but ſome there bee
That hate my vices onely, and not me :
Let them paſſe o're my fame without a blot,
And let the Vulgar ſcratc'h they know not what.
Let them beſwear me by the chattering notes
(Poor ſilly hearts) which echo through their throates,
I'le paſſe it o're, and pray (with patience too)
Father forgive ; they know not what they doe.
Yet O : I could haue wo'd my treacherous Fate
I haue let me diſc without the publicke haſte.

FINIS.

De *ma* *do* *re* *mi* *fa* *so* *la*

47

7

A True NARRATION O F The Royall Fishings O F Great BRITTAINE and FRELAND.

Instituted *Anno 1632*, and prosecuted by
the Right Honourable, P H I L I P, Earle
of Pembroke and Montgomery, and his Affociats,
untill *Anno 1640*, from the River
of THAMES.

Whereunto is added a Discovery of new Trades, for
the employing of all the poore people and Vagrants
in the Kingdome.

R By
S I M O N S M I T H, Agent for the Royall
FISHING.

LONDON,
Printed by E. P. for Nicholas Bourne, at the south Entrance
of the Royall EXCHANGE, 1641.



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TO
THE KINGS
MOST EXCELLENT
M A I E S T Y

The Lords Spirituall, and Temporall,
and Commons, in the high Court of
PARLIAMENT assembled.

*Simon Smith, Agent for the Royal Fishing, of great
Brittaine and Ireland,*

In all Humbleness shewing,

Hat having now by the space of eight
yeeres, since his Majesties first institution
of the Royall Fishery, applied
himselfe by all the best wayes and
meanes, to advance the Artes, Skill and Know-
ledge of the same, for the imployment of people;
and encreasing of the Traffike of the Kingdomes,

The Epistle.

to the great benefit of his Majesty and theadven-
turers; which being brought to that perfection, as
formerly hath not bin attained unto; It now wants
nothing but execution; which to doe I doubt not
but there are many very willing and able; onely
that the imployment is not beleaved, to yeeld
that answerable profit which is expected, and also
because it hath beene often begunne and given over
againe, and these late associations have much dis-
couraged the wel-wishers thereof; Wherefore to
vindicate the honour and reputation thereof, I have
made bold in al humblenesse to set forrh this nar-
ration, and am ready to demonstrate the action it
selfe to be very good and profitable, in all its relati-
ons, and to be embraced and cherished,

VVhereas



Whereas it is reported that the Herring
Fishing by Busses is unprofitable, alledging that the
Lord Marshall, and the Lord Chamberlaines asso-
ciations have lost their stocks, in their
Fishing Busynesse,

I answer and say.

Hat the cause of the consumption of their stocks, was by their improper disbursements, managed by unskilful Factors, building of Barkes, instead of Busses, which were not fit for that performance, and sending them, and other great ships laden with Merchandizes, and many Factors, which wasted & consumed their stocks unto the Islands, of the Lewis and Sheteland, applying themselves in a way of coaping with the Islanders for their commodities, taking unvendable Fish in lieu thereof.

This was not the Fishing intended.

And having made great preparations for the Herring Fishing in the Lowghes at the Lewis-Islands, bought Land and erected houses for the curing and picking their Herrings, and storage of their Nets, Caske, salt, and other provisions, it hapned that the Herrings failed to come into those loughes, whereby their great charges and freights and wages were all lost: and being afterwards made knowne, that the Herrings did not constantly make their appearance in those Loughes, but many years failed.

The Lord Marshals association, having wasted all their stock in that way of employment, quite gave over their Fishing, which did discourage many of the L. Chamberlains associats, whose under-writings being in 7 years payments by equall portions, prevented the losing of their whol Stock ; but caused them to detain their two last payments, yet the L. Chamberlan, & some of his associats, have prosecuted that businesse of the Herring-Fishing, with Busses in the North seas, where the *Netherlanders* doe constantly Fish, which is to this day continued by the Lord Chamberlaines Agent, to the relieve of many poore people ; but the want of Stock, and interruption by the Dunkerker, although it hath hindred the prosperity and growth thereof, yet it hath discovered the action it selfe to be very good in all respects, and to bee embraced and cherished, as for *Directions for the Herring Fisbing.*

Touching the proportion and charge of a Busse, with all the particulars belonging thereto, I referre unto the Booke called *Brittaines Busse*, which exactly and truly sets downie, both the qualities and quantities of al things belonging thereunto.

The manner of the Fisbing.

The Busse of 70 Tuns, which can stow but 30 lastes of Herring Barrels, which is 360 barrels, in regard of the Stoage for the Nets, and other provisions, and must have 55 deep sea nets, of 4 deepings to each net, and each deepling being 70 Masses, at the first setting out, and must have 55 Nets more in readinesse at returne, leaving the others to be newed and tanned, and fitted for the last going out againe, and so for Caske, Salt, and all other provisions to be ready for the quicker dispatch.

The sumber of men and youtches employed in this Busse
is 19. viz. 10 Fishers, Gippers, Salters and Coopers,
6 common men for labour, and three Countrey youtches
for Appentices.

The whole monethly wages to the 18 persons, besides
the Master, will be about 20 li. The Master is to have in
lieu of his wages 12. d. for every Merchantable barrell
of Herring he takes.

The victualling reckoned for two moneths at first set-
ting out, which is the time of taking Summer Herring
(called Seasticks) and then expected back unto the Mag-
azine againe.

The places of the Fisbing are

First at *shetland* in *Cullero* and *Brutio*, *Sounnes*, which is
our Kings Dominions, at which coaste the HERRINGS doe
first rise, and shoothes forwards to the *Doggerbanke*, which
lyeth in the maine Ocean of those Northerne seas, and
there all nations doe fish together, and about *Bartholmen*,
they come into the *Tarmouth* Seas.

*This can give no offence to the Hollander, being its free in
God's high way (which is the Ocean) for all Nations
to Fisb.*

But if it please our Kings Majestie in the future, when
as our English and Scottish Busses shall encrease, then to
strengthen the priviledges of *Shetland*, *Tarmouth*, and o^r
ther places from the stranger, it may prove advantageous
to his subjects, as by the right of his Royaltie, hee may
justly doe.

The Vene of HERRINGS in forreine parts.

For the Summer HERRINGS, which are called *Seasticks*,
(not being capeable of packing, by reason of their fat-
nessse)

ness) are vented at *Danske*, *Elbing*, *Coningsburg*, *Statteene*, and other places, within the *Baltick Seas*, from whence is Masts, Hempe, Pitch, Tar, Waynskots, Clapbords, Deale, and Caske, usefull for the Fishery, or Gold, Silver, and Corne returned.

Also *Hamburg*, *Dunkerke*, *Deepe*, *Nants*, *Rouen*, *St. Valieries*, *St. Mallowes*, *Burdeaux*, and elsewhere.

The second Fishing being repact HERRINGS, the full and shotten separated, which may be vented in all the places aforesaid. The CRUX HERRINGS made with salt, upon salt, doe find their best vent and price, at *Rouen*.

For the latter Fishing, if CORVED HERRINGS, the best vent of them is at *Tarmouth*, to make red HERRINGS for *Leghorne*, *Genoua*, and other parts within the *Streights*.

And what repact HERRINGS then shall bee made, are to be vented at *Deepe Rouen*, and those other places before named, the Eastland being frozen up, and so too late to send any thither.

The Herring Fishing beginneth the middle of June, and ceaseth about the middle of November, but from the time of going forth, untill the returne will bee full sixe moneths.

The same Busse being set forth with hooke and line, for Cod and Lyng may be employed therein, untill the beginning of March, and then returning, is to bee graved, cawlked and fittid out againe for the Herring Fishing.

The Countrey-men employed, may after the Herring Fishing, returne to their Countrey imployment, or beat and dress Hempe, spin, twine, and brade deepings, and the like. The *Gange Busse* being open with one deck, is fittest for the Herring Fishing in regard the nets will bee better preserved therein, then in a two deck Busse, and the charge is much lesse.

There

There is another sort and that is called a Hooker, or Welboat; whose bayt is with Lampres, when as the herring are not to be had for bayt.

That the Action is profitable in a way of Trading, may appear by this Calculation hereunder named, according to good experiments made thereof.

The charge in setting forth of a Herring Busse, from the 15. of May, to the 15. November being 6. moneths, will be at the best rates.

For Casks and Sloopes 1000. Barrels at 2 s. per Barrell 200 l. 000. ood.
 For Salt 1000. bushels at 2 s. per bushell, —————— 100 l. 000. ood.
 For Victualing and perdi-Tallie, —————— 060 l. 000. ood.
 For the six moneths wages to the Company, —————— 120 l. 000. ood.
 For the Master his allowance, 12 d. the Barrell —————— 050 l. 000. ood.
 For the repaire of the 55. Nets, at 3 l. per Net —————— 165 l. 000. ood.
 For extraordinary charges of Store-houses and Sallaries, 035 l. 000. ood.
 For the repaire of the Busse, or freight at 10 l. by the mo. 060 l. 000. ood.
 Some is —————— 630 l. 000. ood.

The 1000. Barrels of Herring will produce one with another for the next Sales, the former of which is —————— 1000. 000. ood.: So the cleare gains for the Stacke aduentured is, —————— 370 l. 000. ood.

And if it should so happen, that but 500. Barrels be taken, yet there can be no losse.

For the Salt and Casks not used, is —————— 100 l. 000. ood.
 For the Masters allowance and other charges saved, —————— 030 l. 000. ood.
 For the Sale of the 500. Barrels of Herring, —————— 500 l. 000. ood.
 —————— 630 l. 000. ood.

But if provision be made in due time with ready money, will further Fishings very much, and lease the rates of the provisions, and cause the returne and dispatch of the Busse sooner, for the want of a Magazine hath beene the onely cause of hindring the prosperity thereof.

If thre Busses consort together, and take alonge with them, a Yagar laden with provisions, to supply them after they have taken such a quantity wherewith the said Yagar may run to the next market, and returning may meet together againe at the *Magazine*, thereby a greater quantity of Herrings may be taken before that the Busses make their first returne, and the same nets being imployed whilst they are wet, will performe it with lesse hurt to the nets, then if they should come away assoone as they have gotten their lading.

Also during their Fishings in the *North Sea*, the Busses may repaire unto *Holy-Island neere Barwick*, for drying their Nets, and receiving of fresh provisions of Salt and Caske, which will be a great accommodation in regard they may in seaven houres from thence be at their place of Fishings againe.

In few yeares the number of Busses increasing both of English and Scottish, they may be able to maintaine an *Armada* for their defence as the *Holland* Busses doe, which are alwayes in readinesse for the defence of the Kingdome, if any sudden attempt should hereafter happen, which the Spanish Fleet that came lately into the Downes, found by wosfull experience; It hath beene observed that at *Sheeland* which is the *Rendezvous* of the *Holland* Busses in the moneth of *June*, yearly hath beene to the number of six and twenty hundred Busses, being enjoyned not to put their Nets into sea before the 13. day of *June*.

And this yearre 1641. the *Netherlanders* have sent forth 1900. Busses, and 36. ships of war to attend them, in which Busses and ships, are to the number of 40. thousand persons, Fishers, and Mariners, and the poore people which they set on worke, at the severall Townes and places whereto they belong in beating and dressing of Hemp, spynning of twine, brayding of deepings, making of Nets, Ropes, Caske, and other

ther provisions, building and repairing of the Busses and the like, is not to little, as 40. thousand families at home, besides their forraigne employmēt in the way of Merchandizing which ariseth thereby, and is of greater consequence unto the States then the ladies to the King of Spaine.

This Fishing employmēt is with a smaller Stocke, lessē danger, nearer at hand, and quicker dispatch then any other, it is gained out of the Sea, for 4 s. which is the cost of the Salt and Herring barrel, produceth the 20.s. in Herrings, shete being neare one Manufacture in this Kingdome that gi-
veth so universall employmēt.

And if this businesse of the Herring Fishing were taken into due consideration, and made a nationall worke; the poor people and vagrants, in, and about all Citties, Townes, and other places, may be kept in worke to get their livings by the bearing and dressing of hempe, spinning of twine, and bra-
ding of deepings, for making of Nets, Lines, Norsels, Ropes, Caske, and other provisions, for the furnishing of a Maga-
zene in each port , where any Busses shall bee built , or set
forth according to the manner of the *Hollanders*, who there-
by have a flourishing Common-wealthe, and doe not suffer an
idle person among them.

And if those men that live wholly by their money trade,
would employ their stockes, or some part thereof in this ser-
vice of the Common-wealthe, to set up this Fishing Trade ,
in any one of the particulars , either by buying Hempe and
making deeping to sell, or in building of Busses to sell , or
Caske, or providing Salt , or setting up a *Magazine* for the
victualing and furnishing with the needfulls , or will buy the
Herring from the Fisher-men and vent them, or will set up a
Bancke to furnish poor people with small summes of money
on their pawnes , at eight pence, whereby the spynnars and
Brayders, and others, may employ themselves in any one of

the said Manufactures; they would find a greater gain to arise unto them, then by their trade of Usury: and more safe and comfortable for them. And to instance in one particular, a 100. li. bestowed in hemp will produce 300. li. weekly, by the Manufactures thereof.

FINIS.



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IUDAH'S JOY AT THE O A T H.

LAYD OVT IN A SERMON ON
the 2 Chro. 15, 15. for *Englands example*
in embracing the Parliamentary Covenant
with readinesse and rejoicing.

Hereunto is annexed a briefe and moderate Answer
to the *Protestation Protested*; discovering the unsound-
nesse of that interpretation of the *Nacionall
Covenant*, and the weaknesse of the grounds
there suggested for Separate and
independant *Churches*.

By JOHN GREGG Master of ARTS,
and PREACHER of GODS WORD
in TEWKESBURY.

Published by order of the House of Commons.

PSALM 76. II.
Vow and pay unto the L O R D your G O D.

LONDON,
Printed by R. Oulton for John Barley, and are to be
sould at the signe of the gilt Cup by Saint
Austins Gate, 1641.

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Studia Indiae et Asiae Meridionalis

Monographia et Bibliographia

Periodica et Recensio

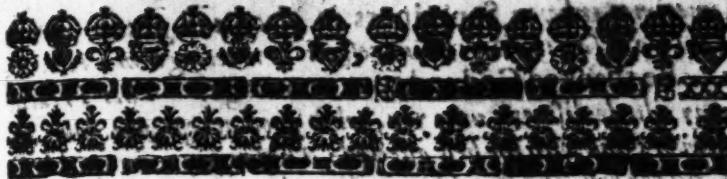
London

Hindoo & Oryental Press

Monographia et Bibliographia

Periodica et Recensio

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TO THE
Right Worshippull NATHANIEL STEPHENS Esquire, one of the Knights of Parliament,
for the County of Gloucester: Grace and peace in
CHRIST JESUS.

SIR,

NOur courteous intelligence touching the Parliamentary War, occasioned these meditations presented unto you: It is our Office to communicate the good which we our selves are partakers of. This good newes much refreshed me, & I thought it my duty to comfort others with the same conso- after the open-
lutions, that endeavor wanted not present fruite, some expres- sing present Joy, and very many quickly loyning in so good a into the Pro-
worke. This encouraged me to make more common, what was first provided for a few, and then I could think of no fitter Pa- 400 of the In-
tron then your selfe, nor only for your long continued, and great the Towne of respect to me, but especially because this, whosoever it is, had its first rise occasionally from you: I expect not this should add any light to you, but to others it may, and to you life. The worke you have in hand needs much encouragement, not only in re-
gard of many difficulties which require Industry, but many af- fronts, and censures, which need patience to digest them, and some congratulations to ballance them: the best need Incour- agement: And respective expressions even of Inferiors

The Epistle Dedicatory.

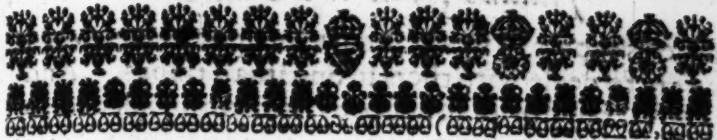
sometimes enliven Superiors in place and grace. When
Saint Paul saw the Brethren respect in meeting him; Ad. 28,
15. he thanked God and tooke courage. This Treatise
may a little discover unto you, what good acceptance your In-
deavours find with the best affected; They rejoice in you, blesse
God for you, and ihss I hope will make you with Saint Paul,
thank God, and if not adde to, yes conserme your courage for
all good causes wheresoever the effect be: that is the ayme, and
shalbe the continuall and earnest prayer of him who is

Yours, much obliged in the Lord Jesus,

JOHN GEREE.

From my Study in Tewkes-
bury, Mass 24, 1641.

IVDAHS



IUDAH'S JOY AT THE OATH.

2 CHR. 15.15.

And all Judah rejoiced at the Oath.



O be civilly wise (they say) it is requisite that we not only study *Bookes*, but *men*: Experience of the dispositions of men being no lesse necessary to compleate prudence, then the rules of wisdom, but he that would be wise to salvation, needs but the study of GODS Booke;

which God hath so contrived, that in studying it, we study men also: For it containes not only *hagiographes*, 2 Tim.3, 15. holy writings, holding forth precepts of divine wisdome, but *historica* deciphering the tempers and dispositions of all men in Spirituall matters, that it may make

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make us expert to worke, and wyn upon them, when we are to deale with them in Spirituall things. And as all sacred stories conduce to this holy prudence, so non more then these of *Chronicles*, and yet some it may be, may count them superfluous, because in many things so jumping with what we reade in *Saints*, and *Kings*; but that Argument is as strong against *Deuteronomy*, and 3. of the *Evangelists*, as against this of *Chronicles*. Besides, this is not a bare repetition, but with weighty supplements. After *David* possessing the Kingdome of *Israel*, there were some Additions to the Ordinances of *Moses*, and that more then of meere order, as *Musick*? This might have bred scruples in the minds of men, that this was a usurpation by *David*; or governors have more power of adding to the Ordinances of *God*, then other Scriptures allow them, had not the story of *Chronicles* informed us that the rise of this Addiction was the command of *God* by his Prophets, 2 *Chron*, 29, 25. Furthermore betwene the former stories and this, there is this remarkable difference. These after the division of the Kingdomes into *Israel* and *Judah*, are exact in the story of the Kings of *Israel*, and touch *Judahs* story lightly: on the contrary, *Chronicles* touch *Israels* story obiter, but that of the Kings of *Juda* as large, as may appeare by this one story of *Aisa*, which in *Kings* is comprised in a few verses of one, but here comprehends 3 whole Chapters; Two of which set forth his excellency, the third his infirmitie: the one for imitation, the other for caution; the one teaching what we should be, the other what after a long profession we may come to be, though we belōg to *God*, that we may neither be secure of our standing, nor austere in our censures.

In the first Chapter

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Chapter is set downe his carriage in war, and peace; In peace there is declared his piety and policy. His piety is commended v. 2. proved v. 3, 4, 5. it was compleate in putting away evill, and setting up good, and that by command. Things thus settled, least Asa should Act Rebooboams part, and forsake the Lord, Zera is sent with a mighty Army, to try and exercise his graces; Asa makes preparation, but relies and prays to God, and becomes victorious. This done he returns, and while their hearts were warme with fresh mercy, Azariab who knew how good a word is, spoken in due season, comes in the Spirit of the Lord, and strikes while the Iron is hot, and gives good counsell, shewing in Gods way, what helpe they should still find; amplifed by the contrary in Israel, forsaking God, and thence he infers a strong exhortation, v. 7. The Son it seemes was seconded by the Father, which did so worke on the good King that his heart is lifted up in the wayes of God, and sets to a more through Reformation, puts away the Idols (*Idols should be put downe aswell as Idolatry*) and he made this reformation as large as his dominion, and that with great successe: God doth use to prosper that courage that is from him, and for him, stirred and directed by his word, and tends to his glory. The people assemble, offer first their Cattle in Sacrifice, and then themselves in Covenant, make a league offensive, and defensive with God, and that with abundance of affection, as appeares ver. 19. and not only is, but after the doing as you heare---- *And all Iudah rejoiced at the Oath.*

Joy is the enlargment of the heart for some present good. This Covenant joyed with an Oath, was apprehended as a Spirituall good, so they rejoiced.

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Here's then, i An affection, Rejoyced, i The Subject, Iudah with its extent, Al'uda, i the Object, The Oath the Covenant, for cleaving to the true God & true Religion. This is registered for our learning: hence then,

Doct. All that are truly Godly, should rejoice at a Nationall Covenant, made for the suppressing of the false, and the preservation of true Religion. 2 Chro. 30, 21, 23. We see joy at the restauration of Religion, then how much more when it is done by Covenant, yea after they counsell'd to keepe other 7 dayes (not another Passeover) but to spend seven days in the service of GOD, and who knowes whether this counsell were not such as Ezra's by Covenant, Ezra 10, 3. Its most probable it was, and it was with joy; how ever we may argue a maiori, so also from that of the Psalmist Psal. 122, 1. But more full to our purpose is that 2. Chro. 23, 16, 17. Where you have the Covenant, the fruite of it, and how it was entertained with joy, ver. 21. so 2 Chro. 29, 10. And this was not personall, but without question Nationall: He did it as a King, and so the Kingdome with him, as appeares by the Issue, ver. 20. The Elders goe along v. 28. there's a Congregation, and was not this with joy? See verses 25, 28, 30, 36.

Reasons 1, Because this is a signe of the graces of God, not only residing, but excelling in the people of God: To keep up Religion in purity, requires grace, but to renew it & that by Covenant argues zeale and undaunted and unconquered resolutions, as it was sayd of Iehosaphat, 2 Chro. 17, 6. his heart was lift up in the wayes of God, carried on the growne wings of Faith and zeale over all impediments. And should not we rejoyce in this, to see such signes of grace in a Kingdome? I am sure had

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had we David's Spirit; we should 1 Chro. 29, 9; See what joy there was for that one discovery of good affection to God; Phil. 4, 10. The Apostle rejoiced greatly, that their care of him did flourish againe, not for the profit he reap't, but for the grace they shewed in such a Nationall Covenant; mens care of God doth flourish againe, care of his service, and should not we much more rejoice? sure we should, and will if wee be not wicked; and so hating grace, or proud and envying it, which far be they from us.

A Nationall Covenant for reformation, is an excellent meanes of reformation, of ^{Reason 2.} *suppressing the false,* and *setting up the true Religion*, so it is to be rejoiced at. That it is a meanes of reformation experience may shew. Where ever was it undertaken that it fayled? See here in Asa, in Hezekiah, in Josb, or Jeho-
aida's time, when this was made, Idolls and Idolatry went presently downe, and the service of God as fast up, see 2 Chro. 15, 16, and 2 Chro. 24, 17, 18, and 29, 10,
35, 36, and 34, 31, 32, 33. So Ezra 10, 3, 5, 17. And how should it be otherwayes? For entering into Co-
venant shewes zeale, courage, and resolution, and when it is Nationall, there is outward strength added to strength of Spirit, and what can let? 2 Chro. ult.
he did it with all his heart, and prospered. When men Covenant, they do it with all their might, and will prosper: when men come to this to renew their Co-
venant with God, he will renew his Covenant with them, and blesse their undertakings: And if God be ith us, who can be against us? Josb. 1, 5, 6. There be two promises made to Joshua, one subordinate to the other: The maine the Apostle makes common, and with the same reason we may infer the latter; the

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Condition is this, ver. 7. Be strong. Now the Covenanting shewes this strength of Spirit or resolution, and therefore all lets come downe, and reformation will come up; and if reformation be effected, then there is cause of joy. Reformation is a thing that the people of God have alwaies and should rejoice in. *Nehem.* 8. the restauration of one ordinance what joy it caused, ver. 17. So likewise 2 Chro. 30. and if any thing be cause of joy, Reformation is: That which removes causes of sorrow, and brings many causes of joy, that will be rejoiced in. But this reformation doth, It removes causes of sorrow, for it removes sin, It's an healing of our backslidings, which is cause of sorrow, so of all corruptions in Religion; now what cause of sorrow these be, see Ezra 9.3. Pet.10. 1. Ezek. 36, 33. It removes feares, and feare hab' torment, 1 John 4, 18. When we are in our sinnes we have cause to tremble at the threatnings, as Ezra 9.3.4. It removes Judgments, so Hezekiah aymed and found, 2 Chor. 29, 10. and 2 Chro. 15. 2, 3, 4, 5. Againe, it brings causes of joy: For hereby God is glorified, God is exalted, who was before neglected, false worship is a provocation, giving his glory to another, going a whoring, Reformation is a setting up his word for rule, and giving him the worship he requires. Now when God is glorified, should not we rejoice, Psal. 97. 1. Psal. 42 10. He that was so wounded at Gods dishonours, would not he as greatly rejoice at Gods glory? without question, and nothing else was the cause of the joy. 1 Chro. 29, 9. Againe, the good of mens soules is furthered, for hereby men are brought into the way of life and salvation, poison is taken out of their food, leaven out of their services, their soules will

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will be edified, services respectd, persons saved, and that we should rejoice in: There's joy in heaven, for this, if for one soule, much more for many. *Act. 11, 18.*

3. This is the way to prosperity, to have God blesse us in all we put our hands unto, for now we keepe Covenant with him, he will likewise keepe Covenant with us, and that is to blesse us in all we put our hands unto. *Deut. 28.* So *2 Chro. 15, 15.* And so in *Hezekias* time, the Land recovered its pristine honour, and strength lost by wicked backsliding *Abaz.* So then there is great cause to rejoice in a Nationall Covenant of Reformation, because it will produce Reformation which is comfortable many wayes; Its the regeneration of a Nation.

A Nationall Covenant is a thing that in time of need all Godly hearts do earnestly desire and pray for, therefore they will rejoice at it; they see the need of it, because without it the worke will not be done. The opposites while the standers for purity, stand single, are too hard for them, by some way or other, they see the use of it in examples, as hath been layd out, they see it is an ordinance of God, and being regulate by the word, they cannot but desire, and pray that God would stir up the hearts of men to it, how often have you in this place heard and joyn'd in prayer with this Petition, that God would move our Sovereigne with *Josiah*, to bring us into a Covenant of reformation. Now what we pray for, we should praise God for, and can we praise God for that we joy not in; *The denying or prolonging of the desire is harsh, but begraining of it, is as the tree of life, most refreshing and strengthening, Pro. 13, 12.* All then that have had so much goodnesse as to desire it, and pray for it, must needs rejoice in it. Now

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Now if you inquire what a Nationall Covenant is, it is a Bond wherein a Nation joynes together to bind themselves to God and one another, for the promoting of any publique good. Now this is done in divers formes, sometimes by way of single vow, promise, and Protestation; sometimes there is added an Oath, as here there was, for that which is called a Covenant, ver. 12, is here termed an Oath ver. 15. Yea sometimes there is further expressed a curse against those that will not enter or fulfill it. *Nehem. 9, 29.* All kinds bind firmly, they differ only in degree, *Heb. 6, 17, 18.* Word, and Oath, are sayd to be two things which for God to break is impossible, and then for man to breake either, must be dishonest and damnable. Thus for prooef.

1. This is usefull, first for information, and it may informe us of 2 things, 1 What cause we have in this Nation, of joy, yea of great joy. May not I as the messenger of the Lord of Hosts, say unto you as the Angells? *Luk 2, 11.* Feare not, for behold I bring you good tidings of great joy which shall be to all people; for in our Nation now is formed a Nationall Covenant against corruptions, and for Reformation. A Nation is either *Collective*, or *Representative*: The Parliament is the Nation representative, and so the whole Nation hath taken it; not one of the house of Commons or Peeres who were present refusing: The Peeres also subscribing it with their hands, according *Nehem. 9, 38.* to that expression *Esay 44, 5.* or as in *Nehemiah's* time they set to their seales. And this they have published partly for our consolation, partly for our imitation, and have we not in this cause to rejoice? May not *Israel* rejoice in those that made it? and the Children

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of Syon be joyfull in their Parliament, who have begun so good a worke?

2. This may shew us, that it is our duty to enter into this Covenant. That as this Covenant is already by the Act of the Parliament *Nationall representative*, so it may be *Nationall Collective* by the Act of every subject in particular. Ought we not to do that which is matter of joy to the Godly? *If it be so bad to make the hearts of the godly sad, and of the wicked glad, Eze. 13, 22.* Is it not very good to make the godly glad, and damp the wicked? Our entring into Covenant will doe it. *Nebem. 10, 28, 29.* When the Nobles went before, all that were of understanding, entred into Covenant after them. Our Nobles have gone before, both noble in blood, and in Office, and ought not we now to follow? he that joyes not at the Covenant, is condemned by this text, and he that joyes and joynes not, will be condemned of himselfe.

Obiect. But it may be some out of ignorance of the nature of this worke, may scruple touching the lawfulness of this present bond, for whose satisfaction these Arguments following may suffice.

1. That which is set before us in the approved examples of Scriptures, and hath been in use in famous Churches and Common-wealths, that may lawfully be undertaken by Christian people: But such is this Protestation for the maintenance of true Religion, therefore it is lawfull. In the dayes of *Aisa, 2 Chro.* 15, 12. and of *Iosiah 2 Chro. 34, 31, 32.* of *Ezra cap, 10.* 3. and 5 of *Nebemias 9, 38.* In all these times they made a Covenant for the maintenance of Religion in its purity, according to the word: So in the Kingdom of Scotland 1680 and 81. So in our Kingdom to main-

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taine the privileges of *Magna Charta*: Therefore this present bond hath good ground for it.

Ob. The Covenants of Scripture flowed from the King.

Ans. Not all, as that in *Ezra's* time, and *Nehemias*, when they were under foraine power, yet they Covenanted *his inconsutis*. Secondly, *Num. 30.* we read, vowes may be made by those under Authority, only superiors have power at the first notice of them to reverse them. But their silence is consent: so our Soveraignes suffering is approving, and confirming: besides it cannot be imagined that such things as are so unanimously consented to by both Houses, should not be approved by the King, and the Protestation it selfe is Printed by the Kings Printer.

2. A Covenant or vow, is an Ordinance of God, for the helpe of humane frailty, to keepe us fast to the performance of any necessary duty which we have or are prone to recede from: whence thus I argue; an Ordinance of God undertaken by fit persons on just occasion is lawfull, but such is this vow or Protestation, therefore it is lawfull. Persons fit for a vow, must be such as are *sui Iuris*, that is, free, or at least *sui juris*, in regard of the thing vowed.

Ob. But here the doubt ariseth, how Subjects that are under a King, can be *sui Iuris*, and so be free to Covenant, especially in such a thing, wherein there is possibility that their King may be their opponent, by such evill advise, as hath of late been given.

Ans. One may be *sui Iuris*, & free in one respect which is not so *absolutely*, as a servant that hath an estate free to himselfe, though he be not *sui iuris*, in respect of his person, and so cannot make a vow to ingage it, yet he is

sui

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sui Juris, free in regard of his estate, and may by vow ingage that. Now though we be Subjects, we be free Subjects, under the protection of Laws, which measure our subjection, and our Soveraignes dominion according to which the King is bound by oath, and equity to governe, receiving his Crowne on these termes: whereby it appeares, that though the Subjects of *England* be not *sui Iuris* absolutely, yet are they soin what the Lawes tye them not to subjection. Now in this Protestation we Covenant only to maintaine things established by Law, and that in legall wayes, and to resist illegall pressures, and therefore in these things we are free to make a vow or Covenant: besides it is to be observed, that this Covenant is made by the Houses of Parliament, the highest Court in the Land, who have power to consult and decree what ever is according to Law for publike weale, and by them we are, though not commanded, yet permitted, yea invited to enter into this Covenant, and therefore have freedome to enter into it. And as the persons are fit, so are the occasions just, for what is a just occasion of a vow or Covenant, to performance of any thing, but humane frailety and corruption manifested in former violation? as in *Hezekiah's* and *Josiah's* time, the Apostacy to Idolatry occasioned the Covenant against it: so likewise in *Ezra*, and *Nehemias* time, former deviation produced the present Covenant to prevent future, and *res ipsa loquitur*, yea *clamat*, what grosse deviations in all the particulars may justly require a Covenant that we may be more strong to prevention.

3. Such bonds as are neither against Law, conscience, nor prudence, may be lawfully entred into: But such

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such is this Protestation, therefore it may lawfully be entred into.

1. This bond is not against law, because it is only for the maintenance of the law, and the prevention of oppressions and Innovations against Law, and by lawfull meanes, and in such a way as is forbidden by no law, therefore there can be no illegality in it.

2. Nor is it against conscience, because it binds to nothing unlawfull, that bond only is against conscience, which is a bond of iniquitie : Now this binds only by good meanes to prevent corruptions in Religion, and oppression in civill liberties or persons for standing for them, wherein if the persons to be opposed be sometimes governors, we are bound to oppose not their Authority, but their Lust, not to hinder their Government, but their Tyranny, which we are not bound to submit to, and its their honour, and safety, that it should be hindred rather then furthered, its better to have power curb'd, then to abuse it : Its better and rather to be chosen of a conscientious Christian, not to be a King then to be a Tyrant.

3. Nor is this bond against Prudence, bat this is the hardest taske to demonstrate, because it hath not such fixed rules, yet we may prove it thus : That bond which is in *matters of weight* answerable to the engagement *needfull and possible*, that is not against Prudence : But such is this present Protestation, therefore it is not against Prudence.

1. This is in *matters weighty*, as in *matter of Religion*, for which if we prefer the soule and the glory of God (as all ought to doe) before life and all outward things, we may enter into the strongest engagements : So for the Kings person, estate, and honour, they

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they that rightly esteem the worke and care of Sovereignty for the Subject, and thence the bond of respect from the Subject to the Sovereigne, will judge that they ought not to think any thing too deare to engage for the safety of the King and his regall State and dignity, and for the liberties of Parliaments, and of Subjects, he that considers that in these the comfortable injoyment of all we have is involved, will think nothing too much to ingage for the maintenance of them; so for mutuall defence, if any suffer for a common cause, all suffer in him, and therefore should stand for him as for themselves, and for bringing to punishment the opposers of these, this is as weighty as the things themselves which cannot otherwise be maintained, but by suppressing those which undermine them. And lastly, for the peace of the 3 Kingdomes, they being now as it were one, the division of them is the way to ruine, and so the whole matter of this Protestantation is most weighty.

2. This bond was needfull, for these things have beeene so violated, and the violation and the violators so strengthened, that the friends of these priviledges have not been, nor would in likelihood be able to maintaine them, unlesse strengthened by such an unviolable Bond of union.

3. This Bond is a probable meanes to effect the thing Coveted: If it were impossible or improbale, then it were a certaine or likely share which Prudence would dissuade, but its neither, there be so many that have so great and cordiall engagement in the things themselves, both Religion, Liberties, and Concord, that if they do unite, the opposites are no considerable part, & that the friends of these things

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want nothing to make them prevalent but union, which this Covenant confirming, is a most probable meanes to make able for the things Covenanted.

Obj. But what if some fall off, or enow will not come in, or these things should be opposed by foraigne force?

Ans. If so many should fall off, or that so great force should oppose that the parties Covenanting could not by force maintaine the things Covenanted, I conceive the intent of the bond then is not to tie men to run on certaine ruine, but to maintaine these things in a prudentiall way, to venture state and life, when there is probability such adventure may effect the thing, or else to waite for an opportunity when it may, and not to be drawne by any meanes faire or foule, from this purpose or resolution.

Obj. 2. A man by this Covenant may be engaged to further the punishment of his Father, Sonne, or dearest friend, and is not that a snare?

Ans. In matter of seducing from the true to false Worship, the case is cleare, we must bring any to punishment, how neare or deare soever, *Deut.* 13, 6, 7, 8, 9, 10. which may be confirmed by that of our Saviour, *Mat.* 10, 37. *He that loveth Father or Mother more then me, is not worthy of me, and he that loveth Sonne or Daughter more then me, is not worthy of me:* And in case of publike weale, if any persist enemies to it, and will not be reclaymed, affection to the Country, and community must overrule naturall and priuate affection, *Cicerio* in his third booke of Offices (a precise booke for matter of Justice) moves certaine cases of this nature, and concludes that though the things be most heynous, if they reach not further then some present damage,

Judahs joy at the Oath.

age, as in robbing of Churches or the Treasury. A Sonne conscious should be silent, but if his Father affest tyranny, or would betray the Countrey when the things tends to the ruine of the Common-wealth, then he must prefer the safety of the Country before his Father, and further his punishment, and this resolution is rationall, therefore the persons we Covenant against, being such as endeavor what tends to the ruine of the Common-wealth, the Father, and so all of kin, if they will not be reclaymed by warning, may by us be furthered to punishment.

This is usefull likewise for tryall, whether we be ^{Vte 2.} true Jewes, true friends to Religion yea or no : *All Judah rejoiced at the Oath* : They then that rejoice not at our Nationall Covenant, are not of *Iuda*, not true *Israelites* in whom there is no guile : Were they (if they mistake it not) they would surely rejoice, *Psa. 126,1,2.* When the Israelits had their Captivity returned, they were even transported with joy. This Covenant is a kind of returning of a Spirituall Captivity under which our Religion and Religious men have been? And can we choose but rejoice? The Parliament are about to enact that the raking or refusing of this Vow shalbe a Touch-stone to discover who in profession *be of us*, who *against us*; who of *Israel*, who of *Ama-leick*. But this text will be a clofer discovery, *Re. 2, 9, & 3,9.* there is speech of some that say they are Jewes and are not, but of the Synagogue of Satan ; in shew with the Lew, in substance with Satan : so som there be that be in *word with us*, in *heart with Rome*. Now these will take the Protestation (ifurged) so that cannot di- cover them, but they will not rejoice in it, they will not be Cordiall, this will convince them : A Lew indeed will

Fudahs joy at the Oath.

will not only take it, but rejoice at it, he that loves a thing will rejoice at the promotion of it, and no man is Religious indeed, but he that loves Religion 2 Thes. 2, 10. Now this Covenant is a meanes to promote Religion. Never did Shiboleth better distinguish an Ephraimite then this Ioy an Hypocriticall professor of our Religion. He may offer to take the Protestantion; but he wil say but fiboleth, he wil lispe, he will not speake out cordially, rejoicing at the Oath, & so is layd open.

Vic 3. This is for reprooфе of such as doe not joy at the Oath, at our Nationall Covenant, that have not their hearts inlarged with consideration of the graces of God shining in our Parliament-men, with the hopes of the flourishing of Religion, to see the expectation of Papists utterly dashed: be not these matters of greatest joy? Are you not then like those that dreame, doubting whether these things be so, because they are so transcendent? If not, if you want Joy, then tell mee where is your zeale for GOD? Where is your love to Religion? See you not your desires fulfilled, your prayers returned, and are you yet heart-bound? What will then inlarge you? Our Brethren of Scotland when they renewed their Nationall Covenant, they of them especially that had scene the making, the breaking and renewing of their Nationall Covenant, wept as fast for joy at the renovation, as ever they had for griefe at the breach of the Covenant. And shall we have no inlargement of heart? what shame, what sinne is this? When we bring a man some speciall thing which we suppose he highly prizeth, If he looke disdainfully, nay carelesly upon it, we will presently repent that we have done it for him. Is not this Covenant a mercy that God lookes England should

Iudahs joy at the Oath.

should prize? Will not sleighting of it, in'not being affected with it, show an unworthiness of it, and make God blast it, curse it? Oh then let them be grieved and ashamed that joy not in it: It shewes a cold Spirit, a carnall Spirit, not like that of the godly, whose praise is in the Scripture.

Hence we may draw a threefold Exhortation, 1 To ^{Vse 4.} rejoice in this Covenant: was there ever such a worke in the Church without joy? Let not us degenerate. Doe you love *God*? Rejoyce to see him glorified. Doe you love the Parliament? Rejoyce to see their zeale and other graces flourish. Doe you love your selves? Rejoyce to see salvation coming to you? Doe you love the Nation? Rejoyce to see *Gods* displeasure removed, his favor procured, feare of judgments vanishing, peace and prosperity approaching. Do you love your Brethren? Rejoyce that the evil shall be restrained, the weake preserved, the good protected. If Ministers now be silenced against Law for Preaching downe Innovations, or people vexed for refusing subjection to them, they may goe to any Peere or Parliament-man, and by his Nationall Covenant (he himselfe having first taken it) require and enjoy his assistance, to be righted, and to have his oppressing persecutor punished, what ever he be, layman or Prelate: Nay if thou canst not looke so high as these Spirituall considerations, yet our Covenant is such as may make thee glad: For if any shall now come upon thee with unlawfull taxes, will streyne thy goods, imprison thy person, &c. thou mayst goe to any Peere or Parliament-man, and by vertue of this, require assistance: and is not here cause of joy? Oh then be joyfull all the People of the Land, and serve the Lord with gladnes. But because it is the worke of our Office, not to have dominion over your faith, but to be helpers of your joy,

Judahs joy at the Oath.

2 Cor. 1, 24. Give me leave to lay downe a few meanes to further this joy in you.

Meanes 1. Then ponder the benefits of this Covenant, Its the head that must move the heart, holy motions flow from holy notions: the more you apprehend and ponder the cause of any affection, the more it stirs: what the eye sees not, the heart rues not, it is true in evils, and it is as true in goods: What the minde apprehends not, the heart joyes not, Psal. 63, 5, 6. David was satisfied as with marrow and farnesse, with joy in God: but it was by meditating on him. So we by meditating on this Covenant, and the benefits of it, may have our hearts delighted as with marrow and farnesse: you may be helpt in pondering to see the good in it by the reasons before alleaged, which are convincing.

2. Looke upon the examples of Scripture, in this and other places, and that will worke upon you; affection is very catching, seeing others grieve or joy is very apt to move us, and so will the consideration of the affection of the Saints in Scripture: The Scriptures are a glasse, but they are a strong glasse, a transforming glasse that changeth our soules to the likenesse of that we see 2 Cor. 3, 18. But we all wish open face beholding as in a glasse, the glory of the Lord are changed into the same Image from glory to glory: so is the worde to us, when in it, as in a glasse, we behold the gracious affections of the Saints: Sure I am, they will make us blush if we be far short and unlike them, and shame will stir us up to reforme, as 2 Chro. 30, 15. The forwardnesse of the people did shame the Preists and Levites, and make them sanctify themselves.

3. Excite and stir up your hearts, you know though a man finde a dampe ou his Spirit sometimes, yet if he see cause of joy, and set himselfe to be cheerefull, he may attaine it, as they did, Nebem. 8. 9, 10, 11, 12. Call up-

on

Judas joy at the Oath.

on your hearts then to be merry in the Lord, and say it's not a time of drooping but of rejoicing.

4. If you finde any of this holy flame inkindled in you by this Sermon cherish it, blow it up, keepe it up, The word is moving for the present, but the impression will not stay long without renewing it: Repeate it therefore in your houses in your minds: rub it againe and againe upon your Soules.

5. Pray : Joy is the fruite of the Spirit; pray for the Spirit to worke this affection to annoynct you with this oyle of gladnesse, to inlarge you to rejoice in this good worke: this will be acceptable to God, and no lesse to us; for when we rejoice in Gods service, God will blesse us, asway be seene 2 Cro. 30. 26, 27.

We should praise God for it alwaies, that which is matter of joy, is matter of praise too: For they are both for good things wherein we are interested: That praise is heartlesse that comes not from joy, and that joy is carnall which ends not in praise, and therefore these two are vsually twins in the hearts of the Godly: joy is the elder Brother, but praise holds him by the heele, Psal. 126, 2. When their mouths were filled with laughter, their tongues were also taken up with singing. When David settled the Arke it was not only wch joy, and exultation, but wch a Psalme of praise, 1 Cro. 16, 7, 8. and truly this day is Religion settled in our Land, and therefore this deserves praise, a Psalme of Praise, a day of Praise, and God move the heart of the Parliament to this solemn thankfulness, as well as to this courageous resolutness, that as they abound in other, so they may in this grace also: In the meane time let us glorify G O D that hath given such grace to them, such mercy to us in time of need; Let this thankfulness then begin in the soule in inward conviction of ingagement, and inlargement to God answerable

Judahs joy at the Oath:

swerable to such a blessing, let thankfulness as a precious spice, flow out in thankfull speeches, blessing God with *Ezra*, who hath put such a thing into the heart of the Parliament to restore and beautifie Religion, *Ezra*, 26, 27. And let us adde thankfulness of life, which is the life of thankfulness, giving our selves to God in all holy obedience, and specially to make and keepe this Covenant, which is the third and last Exhortation.

Exhor. 3.

Enter into this Covenant, you have beeene informed it is a duty, and every duty is to be practised: There is a service which is freedome, the service of Christ: and there is a freedome which is servitude, freedome to sinne, 10. 8, 31, 32, 34. There is a liberry which is bondage, as that which is carnall, and here's a bondage which is liberty: Take this Vow, it will make you free from the Antichristian yoke and illegall Preffures: Feare not, for you have the Peeres of the Land, and Lower house of Parliament fast bound to protest you in this, with life and state. To excite you, consider the examples in the Scripture, wherein upon all occasions the people have been tractable, as hath been formerly shewed: Add to them the noble example of both Houses of Parliament. It's a very Iade that wil not follow, & he must needs be a dut Christian who cannot be moved with such a cloud of such leaders. Shall we see the men of *Israel* and *Judah* contending about priority, in bringing *David* back to his Kingdome, and shall not we rather strive then strain courtesie, who shal be first hereby to bring Christ back again to us, who was departing from us (as wel he might) for he was driven from amongst us; his truths being some suppressed, some disgraced, and Popery countenanced, and by degrees introduced. Shall we show less respect to the *Aniotype* then they to the *Type*, to Christ then they to *David*? Hath not the Scotch Nation in this

Mot. 1.

Judahs joy at the Oath.

this given us a brave example? shall we be behind them in duties, whom God hath made to out-strip in outward mercies? 2. If we enter not this Protestation, we shall seeme to desert the Houses of Parliament, especially the House of Commons, from which this Protestation did first flow: The House of *Commons* are chosen by us, entrusted by us, beare the burthen for us, spend their time, their strenght for us, employ their gifts, ingage their persons and estates for us, and in this way have entred into this Protestation. If they should stand alone in it, it might be misinterpreted, so become a snare, and whē they have don it for us, should we discourage them? what ingratitude were that? what unworthitesse? who would serve? who would venture any thing for such unworthy ones? That Honourable House represents this whole Nation: we have virtually all entred into it; in them we are ingaged in all their just and Honorable Actions, and ought to stick to what they have done, so that our entring into this Protestation, will not be much more then what already we are by consequent ingaged unto, save only a more formall and actuall expression of that in our owne persons, which we have already virtu-
thy done in the persons of others.

3. If we enter not this Covenant, we shall desert the cause of God and be ill Christians, for this is undertaken as an effectuall meanes to confirme true Religion, and wound Popery in these Kingdomes to the heart: And sure if any meaneſ under heaven can extirpate Popery, this is it, which ingageth men not only to reject it, but oppose it, not only in their owne persons to depart from it, but with all their might to keepe it from coming in amongst us by the wicked and prophane plots of others. Now shall we pull our hand from such a worke wherin the honour of Christ, and the salvation of mens soules is so deeply concerned? God forbid!

Fudabs joy at the Oath.

4. If we be not ready to this we shall desert the King and be wanting in the duties of good Subjects, for herein we are to protest to maintaine his Majesties Royall person, honour, and estate, and can we be backward to that without impeachment to our Allegiance? Besides, much of the matter of this Vow is concurrent with that of the Oath at his Majesties Coronation, so the entring into this will be a strengthening unto the performance of that, and thereby we shall do no meane duty of Allegiance. 5. In denying this Vow, we shall desert our beloved Country, and betray the liberties of it, which we herein should protest to maintaine, and this Protestation is a meanes to vindicate them, so far intrenched upon. Now to be wanting to our Country, is to be worse then Heathens, who for the preserving of publicke weale, have not shunned the greatest dangers or sufferings, & Christianity should elevate humanity, not take it off, but enable and carry on to all civill duties on better & higher grounds. 6. Vnlesse we be ready to this Vow, we shall be injurious to the Court of Parliament for ever, which is the glory, safety, and sinnewes of our Nation, the privilege whereof, if once impeached, farewell all that's glorious in in free Subjects, we shall heare no more of such glorious things done by Parliaments: These have been *secunda Tabula post Naufragium*, to save a sinking State, these have been the refuge of the oppressed, if we want Parliaments, if ever we grow downward, we shall have little hope of recovery: and if *Parliaments* loose their power and privilege, we shall want them, though we have them. 7. If we refuse we shal be enemies to our own comfort and honour? For you see it is a thing to be joyed at, and a man cannot refuse, but suspitions must needs rise concerning him; either that he is ill affected to Religion, or tainted in Loyalty, or no good Patriot, lyes under some secret guilt, that makes him loath to en-

Judahs joy at the Oath.

ter into that which may returne upon his owne head, or
that he is a man of a base selfe-seeking Spirit, without
true publicke generosity to put on for any high and holy
work and so indeed a Christian of no value: but we have
need of direction how to do it, as wel as of Argument
to incourage to it: we must then observe these rules;
We must do it understandingly, though we doe it *with* Direction 1.
company, yet not only for *company*: Others examples may
be in *Motiva*, but not *fundamentia*, be *motives*, not the
only grounds of entring into the Covenant: we must un-
derstand what the Covenant is that we undertake, and
how good it is, and so imbrace it. A man being a rea-
sonable creature, must do every thing understandingly, or
else it is not reasonable, and so cannot be acceptable ser-
vice, Rom. 12, 1. 2. We must do it sincerely, not with
the mouth alone, but with the heart: God discernes, &
abhors Aypocrisy, as they Covenanted 2 Chr. 15, 12. *To*
enter into a Covenant with all their heart, so they performed
it, v. 15. 3. We must do it willingly and freely, not
forcedly, no not in a mixt sense, for feare of censure or
punishment, but voluntarily choosing it as that which is
good and eligible: No action is acceptable, but what is
don willingly: some things are sinfull which are in vo-
luntary, but none good. 4. Yea, we should do it joyfully,
being glad of an opportunity to do good, and approve
ourselves to *Godas* they did here. 5. We must do it
reverently; a Vow is an Ordinance of *God*, it is made
with *God*, before *God*, and when we have to deale with
God more solemnly, who is glorious, or with Ordinances
that are so holy, should not we be reverent? Lastly, we
must do it conscientiously, not carelessly, I meane so that
when we have don it, we remember it, and make consci-
ence of the observation of it, else we prophane it, we
loose the end of it, we breake many a strict charge in the
word of paying our Vowes we have made and so indeed
may

Judahs joy at the Oath.

Ier. 23, 10.

may get a curse insted of a blessing, being to God as deceivers, which thing Jacob feared then, G. 27, 12. Our Ancestors, at least, the Peeres have bound their posterity in a Curle, if they did not uphold the liberties of *Magna Charta*, which how well (or ill rather) it hath been observed, is no hard thing to conjecture, and why may not that Curse be one main thing causing our woes? I am sure in the Original the words in *Jeremy* may be rendred thus, *For the curse or execration the Land mournes:* This Covenant is wiserly contrived, being *personall*, not for *posterity*, who having not our occasions may want our care, and may degenerate as we somtimes did: let us therefore who do it out of fresh bleeding occasion, be conscientious in it to observe it, to helpe us it's good to keepe a Copy of what we have entred into; keeping it on a table in our houses, may further the keeping of it on the table of our hearis. And oh that that God, who when he had put it into the heart of *Hezekia* to keepe a Passe-over in purity, and declare it by Proclamation, gave to *Iudah* one heart to do the commandement of the King, and the Princes, by the word of the Lord, would give *England* one heart in this manner, to enter this Covenant according to the rule of Gods word: then would God give us rest round about, as he did to these *Jewes*, 2 Chr. 15, 15. Then would he do according to his promise, subdue our enemies, make the haters of the Lord submit themselves, and feed us with the finest of the wheate, Ps. 81, 14, 15, 16. He would do, do I say? nay do we not see he hath done? For is there not newly a grievous plot discovered, defeated, and we preserved, which is like to turne to the further confusion of the adversaries, the glory of the truth, and perfection of reformation: oh then let this confirme us, and comfort us, in this blessed way, that we may prosper here, and being faithfull unto death, may inherit the Crowne of life: *Wch God vouchsafe, to whom beglory for ever, Amen.*

FINIS.

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(A. 2. f.)

Vindiciae Voti.

OR A

VINDICATION OF THE TRUE SENSE OF THE NATIONALL COVE- NANT, in a briefe and moderate Answere to the *Protestation Protested*: Discovering the un- soundnesse of that interpretation of the C O V E- N A N T, and the weaknessse of the grounds there suggested for *Separate* *and Independant* *Churches.*

BY

JOHN GREE, Master of ARTS,
and Preacher of GODS word in
TEWKESBURY.

Published by the Authority of the House
of COMMONS.

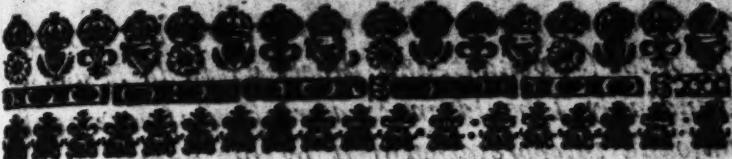
LONDON,
Printed by R. Onslow for John Bartles, and are to be
sold at the signe of the gilt Cup, neare
Saint Austin's Gate. 1641.



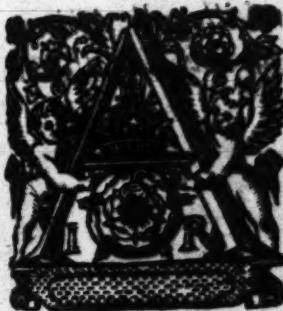


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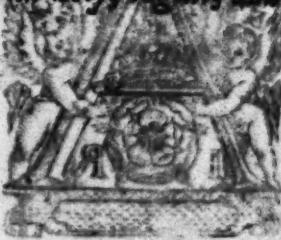


From a tracte set up aboue me
by a neighbour in the Protestation
in the Press, there came into
my hands a Pamphlet named
The Protestation Protested,
or a Remonstrance shewing
what is principally required
of all those that have or doe

take the Protestation: Which Treatise so far as it
doth concerne this title, seemed to me so irrationall,
that I thought all understanding Christians would
rather have smiled at the weaknesse, then have been
anyway moved with the Sophistry of it; But find-
ing by experience that not onely many of the more in-
telligent Christians, but even some of reputation in
an higher ranke, were much taken with it, and the
effect of it, that some were scrupled, some attemp-
ted a tumultuous removing of things established by
Law, under colour of this Protestation, I thought it

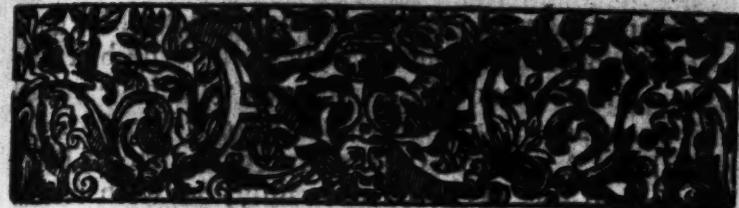
To the READER.

necessary), that unto his Friends, professing the taking
of the Covenant, and threatening to do if under-
standingly, I should annex a bridle as were to the
unsound interpretation of it by this nameleſſe Au-
thor, leſt those that have, or may enter into it, by
my meaneſ, be afterward by ſtinkid gloſſe, caſt
upon either the incomparabla burthen of a wounded
conſcience, or unwarraitable and illavall Actions,
which will hinder, not further, an holy, legal, and
orderly Reformation.



of all those who take part in the
work in ministerially undivided
or semi-independent units among
the Ecclesiastical Province of
Lippe.

Exhortationis ad alios : Missus est deo : Exhortatio
Miserere mei omnes qui amant me, et dicitur illi uide
alios et misericordia regnante Ihesu Christo I ambi-
tudo et misericordia regnante Ihesu Christo I ambi-
tudo et misericordia regnante Ihesu Christo I ambi-



A N S V V E R E TO THE PROTESTATION PROTESTED.



HE very Title seemes to me a riddle, seeing nothing in the Treatise to answere it, this being not an avowing, but a glossing, or rather a glossing of the Protestation, as will appeare by the sequell: But least we should stumble at the threshold, he hath hang'd out a light, adding, or a short Remonstrance, &c.

ECCLES. 5,45.

Page I.

When thou comest a row unto GOD, defer not to pay it, &c.

The Author first laid us downe a text of Scripture, from consideration of which, compared with this Protestation, he is made to tremble at the small account

An Answere to the

that many make of lo soleme a vow, under which guilt by his exposition he concludes the most of the best Ministers, and people of this Kingdome, who have entred this *Profession*; wherein thus far we willingly agree with him. A vow to God is a straight and sacred Band, that should not be entred into rashly, but with serious deliberation, Eccles. 5, 2. else instead of an help, it may become a snare, and be so far from acceptration, that it prove an abomination, as in *Sephias case*, Judges 11. 30, 31, 34, 35, 36, 39. After a vow is taken there ought to be as much tendernesse to observe it, as caution before we undertake it, else we shall but double our guilt, and increase Gods displeasure against us. What we vow is in it selfe good, and sociarie with it lay engagement to performance. Our Vow is second ingagement super-added to the first, if after it we be negligent, we breake more bonds, and so must needs be more guilty: Its not to be doubted but many enter this *Profession* rather for company then conscience, and so will make too little account of keeping it, and need admonition to observe, as well as to enter this Covenant. But that this neglect should be so generall, as to include the generality of the Godly, as this Expositor doth make it, that I dare not assent unto, the *Psalmist* hath taught me more tendernesse, Ps. 73, 15. *If I will speake thus, behold I should offend against the generation of thy Children.* To condemne the godly was such a thing to this blessed *Psalmist*, that he would renounce sense, and reason, and set upon a serious review, rather then dash upon it: In whose steps had this Author troden, hee would not have been so rash, to have put the foole upon them: He might with lesse adoe then the *Psalmist* have freed himselfe from needlessie Horrore, and the godly from unjust censure. But now to the point,

Protestation Protested.

He gives us the ground of his Censure.

Pag. 2.

The Protestation is to maintain the Doctrine of the Church of England, so far as it is opposite to Popery, which they do not performe, so long as they reaine and maintaine the imposition of the Liturgy; 2 the Discipline; 3 the Government; 4 the Ceremonies.

Ans. In his very first Argumentation there is a most palpable fallacy, which is so obvious, that its wonder to me, that any man that would undertake to write a Booke in a matter of this consequence, should either not himselfe see, or should imagine that so many cleere eyes that it must needs touch, would not most easily discerne, and discover it; for the Argument must be framed thus.

He that hath solemnly vowed to maintain the Doctrine of the Church of England, so far as it is opposite to Popery, must renounce all Popery, and particularly the imposition of the Liturgy, &c. or else he breakes his vow, and is a foole &c. But the Ministers and people have protestted to maintain the Doctrine of the Church of England, so far as it is opposite to Popery. Therefore they must renounce all Popery, and particularly the imposition of the Liturgy &c. or else they breake their vowe and are fooles, in whom G O D hath no pleasure.

Now what a manifest fallacy is here, *a dicto secundum quid ad dictum simpliciter*, from that which is spoken in some respect, to that which is spoken absolutely; for the Protestation is not against Popery absolutely; but as this Author expresteth it, so far forth, as it is against the Doctrine of the Church of England: what Popery then the Doctrine of the Church of England doth not condemnne this Protestation doth not include; being onely to defend the Doctrine of the Church of England against Popery, and Popish Innovations. But then some will demand

An Answer to the

demand is not the Doctrine of the Church of England, against all Popery. I answer, ad hincinam. If the things here objected be Popery, then the Doctrine of the Church is not against all Popery, for these things so far as they may be termed Doctrinal, are yet according to the Doctrine of the Church of England; unless you will say that the Doctrine of the Church of England is contrary to the practise of the Church of England, whence then thus I Argue: Either the Doctrine of the Church of England is not against all Popery, or else the imposition of the Liturgy, Ceremonies, Discipline, Government, are not Popery; for the Doctrine of the Church of England is not against them. If the Doctrine of the Church of England is not against all Popery, he that vowes to maintaine that Doctrine against all Popery, vowes not against Popery absolutely, but only as it is against that Doctrine: and then this Authors inference from this vow against Popery, with this restraine, that we must therefore oppose all Popery absolutely, is a manifest inconsequence: on the other side, if the Liturgy &c be not Popery, as they must not be, if the Doctrine of the Church of ENGLAND be compleate against it, then they are not abjured: So however it be, the Covenanter is free from breach and folly: And this I conceive is so cleare, that it needs no further confirmation: yet a little more to evince the absurdity of it, by other particulars in the *Profession*, we protest to maintaine every person that maketh this *Profession*, in whatsoever he shall do in the lawfull pursuance of it. If a man should thence inferre, that we must defend him whatsoever he shall doe in the pursuance of it, If hee shall move sedition or the like, were not this a violation of the sense of this Covenant? and is not the same, when we stretch the opposing of Popery so far as it is opposite

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opposite to the Doctrine of the Church of England; to be meant against all Popery whatsoever though it be granted, it be maintained in the Church of England? His foundation then is most rotten, and what firmness can be in the building?

But he makes the objection, *Page 2.* which he inde-
vors to answere as well as he can: The Objection is, that
these things are established by the Law, therefore we
may not cast them off till the Law be abrogated, and we
protest against Popery, to cast it out so far as lawfully
we may.

Thus the Protector, wherein he hath objected, what
he hath not well answered, though all be don very rawly.
For first he should have framed the Argument thus,
Those things are established by the Lawes of England,
where the Doctrine of the Church of England is esta-
blished, and therefore according to the Doctrine of the
Church of England, these things cannot be interpreted
to be Popery, and so not within the Verge of that Pro-
testation, which is against Popery, as it is opposite to the
Doctrine of the Church of England: which objection if
he ever answere, erit mihi magnus Apollo. The Objection
which he hath made, he strengthens from the words of
the *Protestation*, that we protest to cast out things as far
as lawfully we may, which clause doth not at all respect
the matter protested against, but the meanes and man-
ner of pursuance, that we shall not doe it in any tumultuous
or seditious or illegall way, but by honest and
lawful meane. A thing needfull to be takeo notice of by
many respective Readers of this Booke, who while they
learue of him that they must oppose the things men-
tioned, as parts of Popery, from themselves infer, that it
ought to be done in a vio'ent way, without waiting for
the direction of Authority which in private persons is

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not to oppose lawfully, but illegally, and seditiously.

But now let us heare his Answer. First saith he, *All Lawes are to be interpreted according to their cleere intentiōn and end.* Now the Law for reformation never intended to allow or set up Popery in the Church of England.

(a) There is a twofold intention of Lawes, one generall arising from mens goodness, and that may be to remove whatsoever is evil, the other speciall arising from mens light, and that is to remove such particulars as are discovered to be evil. the latter intention is the rule of interpreting Lawes, not the former, and this Author speaks of the former.

Ans. This rule for the interpretation of Laws, in the (a) sense he takes it, is a device of his owne, that hath neither authority nor reason, for the confirmation of it. Lawes are to be interpreted according to the minde of the Law-giver, which the Grammaticall sense of the words doth usually discover. Indeed in matters doubtfull, where the words are capable of a double sense, the intention of the Law may there cleere, what sense is most *Genuine*: but that the generall intention of of the Law shall give a sense contrary to the letter of the Law, is without doubt, a groundlesse and dangerous fancy. Its true, the Law never intended to set up Popery, but the question is, whether it be destructive of all Popery. The Law can reach no further then the light of the Law-givers, who if they saw not all Popery, could not by their Lawes condeme all, nor did, if the things in Question be Popery. *Lex Currit cum praxi.* The generall practise especially of those that are regular discovers the mind of the Law, and the practise hath been to maintaine these things, therefore its not the meaning of the Law to condemne them, nor of this *Protestation* to abjure them.

Secondly he saith, *If humane Lawes be found to be contrary to Gods word, they are invalid and void ipso facto.*

Ans. This rightly understood is in part a truth, but here misapplied, we are subjected to all Terrene superiors by the Lord and under the Lord, when they then command any thing contrary to GOD, the Lawes have

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we binding power, because by a superior Law we are bound to the contrary: But yet such Lawes are not *ipso facto* void, or if void, yet they are void *in foro conscientiae*, in the Court of Heaven, not *in foro politico*, in Courts on Earth, though we are not bound to obey them; yet we are without resistance to submit to such penalties, under the danger of Sedition, which were there noe Lawes, we were free from. Againe, this Thesis of his is misapplied, for thence he infers. Thirdly, that having made this *Protestation*, we ought to have no communion with the aforesaid particulars, notwithstanding they be confirmed by Law, which inference is therefore faulty, because the *Protestation* is onely against Popery as it is against the Doctrine of the Church, and that which is confirmed by our law, though it be Popery, yet it is not Popery opposite to the Doctrine of the Church of England. If the Lawes of the Land, and the Doctrine of our Church, had their establishment in different Comts, then that which is establisht by Law, might be against the Doctrine of the Church; but the Doctrine of the Church, and the Laws of the Lands, having both their establishment in Parliament, what is confirmed by Law cannot be Popery against the Doctrine of the Church, and therefore this Authors arguing must needs be irrationall.

But now we are furnished with a second Objection, which we are to consider of, and whether this Author hath with any better successe taken of, then he hath the former, what saith hee, If the Parliament did not by Popery understand the Liturgy, Ceremonies, Government of our Church, and he gives good reason to conceive they did not, for then many of them would not have taken it. What shal we do then? that is his Quere, now heare his Answers. First saith he, we are sure they intended it against

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gaint all Popery. To which I Answere; that its most cleare, and so he himselfe expresteth in the former Page, they only intend it against Popery, as it is opposite against the Doctrine of the Church of England, and such Popery the mentioned things cannot be. Secondly saith he, *They expresse, that the words are not to be extended to the maintaining of any forme of worship, Discipline, or Ceremonies in the said Church:* What doth he thence inferre, why forsooth? that therefore we may not Protest for the maintenance of these; why, was that the Question whether we should be bound to maintaine them, or whether we are bound to abolish them? What ridiculous disputing then is this? But hence I Argue: If the *Protestation* do not include them for confirmation, because they are no parts of Doctrine; it doth not exclude them for abolition, but leaves them for determination to another opportunity. Thirdly saith he, *Suppose that at the first making of the Protestantation, that these particulars were not mentioned in the Catalogue of Popery, yet no good Christian can or will deny, that the House of Commons did not at all intend to exclude what ever should pertaine to Popery as a branch thereof.* This Author is very good at bold assertions, but all as bad in confirmations, for what a good Christian may do in weaknesse, I will not determine; but no wise Christian, as far as I can conceive, can judge, that what ever shall be found to be Popery, is included in this *Protestation*, but what ever is found to be Popery against the Doctrine of the Church of England, which is the terme limiting Popery in the *Protestation*. Fourthly he Argues from the hopes that we have by this *Parliament*, of such a Reformation, as will not deserve the name of Reformation, if all Popery be not made to be packing. I joyne with him in all comfortable hopes from this Honourable House, but what is
F his

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this to his matter in hand? All the Reformation to be expected from this *Parliament*, is not expected by this *Protestation*; this is one degree to reforme whatever Popery or Innovation is against Law established; this done, the *Parliament* is proceeding further to perfect hoped for Reformation, by removing corruptions established by Law. Firstly, Suppose saith he, that it could be imagined by any reasonable man, that the *House of Commons* had no thought implicitly to include theforesaid things in the farrell of Popery: shall private and particular Christians knowing these to be Popery, and Antichristian, being bound by their solemnne *Vow* and *Protestation*, never reforme themselves &c. I Answere no man can; if (as he is rationall) he deale rationally. But suppose that these things were not included in the *Protestation* according to the intention of the *House of Commons*, which may appeare by unanswerable grounds.

i. Because the expresse words be against that Popery which is against the Doctrine of the Church of ENGLAND, which these things mentioned, established by Law in our Church cannot be.

Secondly, Since the generall taking, and first making of this *Protestation*, the Government and Discipline of the Church hath been in strong dispute whether it should continue or no, which had it been Protested against, there had been no place for dispute, which yet doth neither take off the friends of that side from asserting, nor is used by the opposites to Prelacy, to overbear their Antagonists, which had been the easiest and speediest way of victory, if this Authors fancy had had truch in it.

Thirdly, Under favour, though (as I shall make it appear) I am no friend to the foressaid things, yet it was not rationall that the *Parliament* should include

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these things in their PROTESTATION; for these things being establisht by Law, and fixt in many of the members hearts aswell as Laws, to desire men presently to abjure them, before a full debating of them, seemes a point of such rashnesse, yea Tyranny, as will nor consist with the transcendent wisdom, and Justice of that Honourable Court.

Fourthly, Nay further I conceive (under favours) that it would not have stood with the duty of that House to their Soveraigne (of which I know they are most tender) nor that respect that they owe to the Lawes of the Land, to protest against things established by Law, till the Law it selfe be abrogated, for none may Protest in such a case further then they are free: Subjects can challenge no more freedom then the Lawes allow them, where and while Lawes do tye them, they are in subjection: and therefore could not in point of duty Protest against such things, in such a manner, to which the Lawes binds them. The power of the House of Commons (where this *Protestation* was framed) is no doubt great, far beyond my apprehension, yet in this case I conceive their power over Lawes is with the consent of the Lords, and his Majestie, to abolish them, but not Protest against them, while they are in force. By all which Arguments its manifest that the *Parliament* neither did really, nor could rationally, intend in the *Protestation* to Protest against these things established by Law, and if we suppose truly they intended it not, this Author doth suppose still safety, that we are by our *Protestation* bound to reject and oppose them, for its an old sound rule, Oathes, and Protestations, are to be expounded according to the meaning of the frame and giver, not of the taker, else by a dishonest equivocation, any thing almost may be eluded; therfor what the *Protestation* meant not

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not, we in the taking are bound to. And if this disputer should thinke this shold bind us in the thiing mentioned, though the Parliaments intended no such thing, but the contrary : He may as well affirme that we are bound to maintaine his impendant Churches, for whereas we Protest to maintaine the lawfull Rightes and Liberties of the Subject, and every person that maketh this *Protestation*, he may infer, but independency is in his judgment, a right and liberty of all Christians entring into this Covenant, therfore we are ryed to maintaine it : This infernace hath lesse dissonancy from the letter of the Covenant, than that of his about the particulars questioned ; yet though I believe hee hath as good a will to this as the former : he dare not be so bold as to draw such a conclusion, because though the letter may beare it, yet the judgment of the compliers makes it manifest, it was far from their meaning, which reason likewise might have kept him from including the particulars in hand.

But now lastly, he comes in with other quaries, *What then, shall men never reforme themselves, but live and die Communicants, &c.*

Ans. How doth this follow, may not men Reforme themselves in these things, unlesse they do it by vertue of this *Protestation* ; did not all that held these unlawfull, before this *Protestation* was formed, in their owne practise withdraw from these things, so far as they held them unlawfull, and against the word of G O D, and so may and ought to do still, though they be not included in the *Protestation*? But to proceed, this Author next brings in his Schollers, questioning how it may appear, that the forementioned particulars are branches of Popery. And he faines them, speaking, that if their Consciencies were convinced therof by the word of G O D, then by their

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Protestation, as well as by GODS word, they were bound to renounce them:

Ans. But by his leave he makes them speake what many will not, and none ought to speake. If these things be Popish, then by the word of GOD we ought to renounce them indeed, but by this *Protestation* we ought not, unlesse they be Popery opposite to the Doctrine of the Church of *England*. I my selfe must needs account these things, or the most of them of the same alloy with many things by the Doctrine and Lawes of our Church already condemn'd and abolished; else I should not have been nor continued, as in part I doe, a sufferer for witnessing against them: And I doe as earnestly desire Reformation of them as of any thing; that little grace that I have, doth as much Ad^t that way to wrastle with the Lord, for the rooting up of those plants which our heavenly Father hath not planted, at any way, but nothing ingaged by this *Protestation*, but only by that allegiance which I owe to *Christ* and his word. But some may say, If you be against those things, why doe you pleade for them?

Ans. Mistake not, I plead not for them, but to cleare the sense of the *Protestation*, that it may not be wrested to include them, as it is by this Author, of which wresting I see and feare manifest inconveniences.

First the Honourable Houses of *Parliament* are by it wronged, and are thereby like to grow more opposite to the removing of the things here pleaded against, and so(as it is usually) this making hast will hinder the work it aymes to further, unlesse this conceit be seasonably corrected.

Secondly, This misinterpretation will hinder many from entring this *Protestation*, which remors of so good a worke, had need be removed, which this *Answere* may further.

Thirdly,

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Thirdly, Many that have taken it, are partly troubled, because such things are yet suffered that they think they have Protested against; which they think they should not only omit to Act, but also by all meanes oppose; partly I see men are taken off for praying for the abolition of such things, as they conceive are already cast off by Protestation, and are inclined by carnall violence under this pretence, to do that in the Church, which by a spirituall violence they should indeavor to prevaile for with GOD, that so they may be prevailers with men, to have publique corruptions purged by publique authority, which is a safe, comfortable, and hono-
rable way.

Lastly, So ne that think somthings in themselves lawfull and tolerable, I find by this Protestation Protested, to conceive them unlawfull, as against the Protestation though in themselves indifferent. As to instance, though they thinke and justly, That the use of the Liturgy in the whole forme of it, as a compleate service of GOD to be many waies vicious, yet they think the use of some of the formes there, which are without exception, and most suited to the peoples wants, to be in themselves lawfull. Notwithstanding though not for his Argu-
ments, to prove them Popish, yet for the exposition of the Protestation they refuse them, and not only refuse them, but lay imputation on those that use them, as breakers of their Vow and Protestation. Now as I have proved, no use of the Service-Book is against the Protestation, so nor the use of some prayers in such a manner out of the Booke, can as I conceiv~~e~~ be justly termed Popish: for suppose that the forme we use be in the Massie-Book, why may we not aswell ask the same Christian Graces, that Papists and we both conceive to be necessary to a Christian soule, as expresse the same

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faith touching the *Trinity* or any other point wherein we agree in the same words, and that without the guilt or imputation of Popery? And againe, he that doth thus use the Booke, not according to the whole frame of it, but selecting what is most holy, nor according to the set words of it, but with liberty of correcting the expressions, which to our times seeme harsh, and unsuitable, doth hereby as I conceive, avoid his second Argument, the imposition makes it not Popish to him, because he useth it with liberty of conscience; To this we may add further, There is I conceive a true and usefull distinction to be made of humane constitutions: some are helps, and so are *in genere boni*, good in their kind, the other have no ground, but meere imposition, and so are *in genere mali*, in their kind evill. Now formes of Prayer are humane helps, and so good in their kind: Prayer is an Ordinance of God, it requires a forme of words, especially in publique; all men are not able to conceive a forme, and therefore a composed forme to them is an helpe, and so good in its kind. Now for the Governors of the Church where there is need of a form, to tye to one forme which they conceive pure, of purpose to exclude others, which they conceive corrupt, is I conceive no usurpation upon Christ. And this was the end of our Godly reformers in appointing this Prayer Booke: Now though many men need not this helpe, and it may be can conceive better expressions, yet being that formes are human helps, and not in themselves evill: I conceive we may use some of the Prayers without sin, for though its often said, that we may not do evill that good may come thereon, yet I never heard it proved, that we may not sometime do a lesse good, and not the greater, for peace and order, and to enjoy the greater good at other times, more fully and freely?

This

The forme of
words in Prayer
is not the service,
but *modus*, the
manner of ser-
ving God in that
Ordinance.

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This giveth me satisfaction, and I beleeve many godly, and so prevents division from the Church Assemblies, which is desirable, for breaches if they be not necessary are justly scandalous. If any dissent from us, we shall be more ready to contend with God then them; with God (I say) that he would move the *Parliament* to remove this forme so excepted against, and corrupt in the gene^rall composure of it, and what ever other they prescribe not exactly to tie the well guifted to it; but leave a liberty to vary as God shall enable them, as I have heard it hath been in our deare Sister Church of *Scenland*: Or if they tie them to any forme, that they will rather tie them to the matter, then the words, to prevent the broaching of errors in Prayers, which some think was the first occasion of set formes. There be Hæreticall Prayers as well as Sermons: A *Socinian* may vent his Hæresy against the person of *Christ*, or the grace of *Christ*. An *Anabaptist* may vent his Hæresy against the Magistrates of *Christ*, or Ordinances of *Christ*, in his Prayer as well as Preaching, therefore the *Governors* may justly tie them to set heads of Prayer, though they leave a liberty to the able, to use their own expressions; so Hæresy shalbe prevented, and no breach of liberty justly pretended: but this I refer to the wisdome of that Honorable Court.

Another Evill of this Treatise, which needed cure, it hath bred in some, and nourisht in others, an opinion, that our Churches are not Churches, nor our Ministers true Ministers, nor our Sacraments to be participated without saine, whereby some are drawne to, and others confirmed in a neglect of the servants, and service of God, which is no small evill, that deserveth cure. Give me leave therefore a little to examine his grounds. His first assay against our Churches, is in the close of the

proo^f

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proose of his third point, the Discipline of our Church to be Antichristian, whence he concludes we want Discipline: and from the Book-prayer, and pell mell admission to the Sacrament, he affirmes in his judgment, we want true Sacraments, and that the Preaching of the word, be generally corrupted, then it wants a third marke of a *Visible Church*: for answere, I conceive a distinction suggested by the assertor of the Scotch Discipline to be very true, and here pertinent. P.196. A *Visible Church* may be considered, either Metaphysically, or politically. It is one thing to consider men as living Creatures, indued with reason, another thing to consider them as Magistrates, Masters, Fathers, Servants, &c. So it is one thing to consider a *Visible Church* in her essentiall, as a Society of men and women, separated from the blind world, by divine vocation, and professing together the Gospell of *Iesus Christ*, another thing to consider it as a compleat politicall body, in which the power of Spirituall government and jurisdiction is exercised, som governing, some governed. Now a Church that wants government, or hath one that is corrupt, may be a true Church in the former sense, though not in the latter, & being a tru Church in the former sense, her members may communicat together in these holy things, which fall under the power of order, which may be called *Sacra mystica*, as word, prayer, Sacraments, though not in such things as are under the power of jurisdiction.

For his objections about *Sacraments*, the first I hope hath received already sufficient answere.

For his second objection of *Pell mell admission to the Sacrament*, if he dispute against the Church of England in generall, he must consider what her Lawes are, not what the practise of some is: Its true, the Law enjoynes all to come, but its as true, that the same Law forbids

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bids those that are in contention, or are otherwise offensive to the Congregation, to be admitted till satisfaction given: So the command is generall, that men may not be let alone in prophanenes, and the admission is restrained, that men may not be suffered to be prophaners.

And for his Third, *The Preaching of the word generally corrupted*, that shewes a mind to cavill, rather then any cause, seeing that corrupting of the Word, was against the Churches Lawes, by particular persons, and all such decrees against Laws are declared invalid: But in this he hath as if at the ministry which he further proposeth in his Fourth particular in these words.

And to these Curates consideration I refer it, whether they be able truly out of good premises to conclude themselves the Ministers of Christ lawfully called, when all of them doe immediately derive their Ministry from the Antichristian Hierarchy, as the sole foundation thereof; and under the name of Curates, he comprehends all the Godly, and learned Pastors in the Church, and dare he say, that the sole foundation of their Ministry is the Antichristian Hierarchy? Are the precious gifts and graces that Christ Jesus hath bestowed upon them, and blessed and honoured with the conversion of many soules, no part of the foundation of their Ministry? Is the free choice of their people, desiring them to take the oversight of them, no part of the foundation of their Calling? Will not these in some mens judgments, and it may be of this disputers, serve the turne without any thing else? Have they any thing from the Bishops, but as it were, an externall authorising, to exercise their gifts in a publique way amongst their people? which if it be in som respects corrupt, shall this corrupt complement make void the call of God, & of the people? God forbid! undoubtedly Christ would never so ordinarily worke by them as he doth,

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were they not his Ministers, but Antichrists: Besides I
believe this disputer knowes, that by Law the Bishop
ought to have divers grave Presbyteris with him, and
then the imposition of hands is by the Presbytery, as was
Timothees, not of Episcopacy only.

But having answered his Objections Printed, its need-
full I answeare some others occasioned by him.

Object. Oh bus say some, if these things be not included in
the Protestantion, of what use then is the Protestantion.

Ans. Very great; Is it not a great matter to fulfill
that great charge laid upon the Church of Thuringia, Rev.
14. Hold fast that which thou hast: God hath given this
Church some light, wherby almost all the erroneous
Doctrines, and superstitions of Popery are removed,
which light by the audaciousnesse and corruption of
some Innovators, hath beene greatly obscured, our
Churches Doctrine in matter of Justification, Free-milk,
Free Grace; Gods eternall decrees, &c. hath boone al-
most utterly overthrown: Altars, Images, &c. brought
in, and the aduersaries were as greate thought, and had
proceeded far to worke disturbance in the present pro-
ceedings: whereupon it pleased God to move our wise
and Religious Parliament (ever blessed be his name for
it) to make this Protestantion to maintaine the truths and
parity by Law establisched, which was an excellent
meanes to hold fast that they had, and prevent apostacy,
give me leave to illustrate this by an homely compari-
son: When men are lifting up a thing of great weight,
or Horses are drawing some great burthen up a steep
hill, when either are at a stand, wisdom reacheth them
to under-prop the burthen and stay it where it is, till
breath is taken, or more help added to raise it to a de-
sired pitch. So was it with our worthy Reformers, they
were tugging to heave an heavy weight, and were at a
dead

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dead list; This *Protestation* to defend our *Doctrine* that is pure, was an undershooting, that things might not goe backwards, till they could add more strength to raise things higher, which God be blest, they are busily endeavoring, and if men will but waite, I hope they shall see the Reformation raised as high as the *Doctrines* of *Scriptures*, which ought to be the only rule, and I doubt not but is theirs.

Q. But if they were in the *Protestation*, ought we not with violence to pull them downe, and so deale with all superstitious Pictures, &c.

A. To the consideration of the matters Protested against, we must joyce the manner how we protest to oppose them, and that is lawfully. This *Protestation* gives men no leaue to breake their Ranks, it puts not a sword of authorietey into every priuate mans hand, but every thing is to be don in a lawfull way, without breach of that order that God hath appointed in the world, or our Laws have ordered in our Land. To answere this then distinkly: Things Protested against, are either private things, or publique, as for instance, some Crucifixes, and other superstitious Pictures, are our owne, at our own full dispose, some are in publique places, and if it were of publique interest, things that are private in a private mans power, this *Protestation* doth bind him to a present Reformation of without further leaue from any. But for things that are publique, private persons are to make their address to Magistracy, and intreat them to proceed, and then the private persons may follow as Assistants.

Againe, Some corruptions are in our owne persons, as our owne bowing to, or before the Altar; some are in others; that in our owne we are presently to Re-forme, but if another continue corrupt practises, we

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may admonish them, Protest against them, but nor lay violent hands on them, but detect them to the Magistrates, who by his Protestation, will be bound to punish and Reforme them; thus Gods worke will be done in Gods way, with more beauty, safety, and certaintie, and suteable to the mature judgments of the wise Compilers of this usefull Vow.

After he hath done thus with the *Protestation*, he proceeds to other objections, to overthrow all subordination in the particular Churches of a Nation, not only to one another, which was never dreamt of, but to any generall government by Officers gathered out of all, and so set over all, and so he laies a ground for independant Separat^t Church^s, which he desires may be erected in this Nation: but this taske of his is undertaken and performed with better order and strength, by another Author in the *Presbyterian Government Examined*. And yet that hath received a solid Answer by the Assertor of the *Scotch Government*, and that not only in the generall, by the grounds there layd downe: but by a particular view and answer to the Arguments of the examiner, and therefore thither I shall remit the Reader that will take paines for satisfaction in those points. The full discouling of these things, is also besides my purpose, who do only undertake the Answer of it, in reference to what is sayd, touching the misinterpretation of the *Covenants*, as impeaching the Doctrine that in the preceeding Sermons I desired to publish, yet because I perceive many are much unsettled (and that even of those to whom I have some relation) with the things that are scattered in this discourse, I will indeavor briefly to run-over the things here that are materially, especially such as have not a full answer in the above-mentioned Treatise.

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In this Authors Answers to his owne Querry, what shall be substituted instead of *Prelacy, Liturgy, and Ceremonies*, many things deserve examination. First where he saith, considering the Church of England to be none other then a *National Church*, it is uncapable of constitution. This word *National Church*, I finde often used, and much put upon it, and yet neither is it a Scripture phrase, nor do any give us a certaine exposition of it, it by it they understand a Church that hath some common Nationall Worship, by some common Pastor, at some common place, as all the Jewes had the same High Priest, and Temple, and all the Males were to meeete thrice a year at the place which God should choose; In which respect I conceive the Church of the Jewes was properly termed a National Church; in this sense Christians have no National Churches. But he seemes to make a National Church to be when an whole Nation is taken into a Visible Church, or Churches, having all of them the outward profession of Religion, which he saith, is impossible now, because particular Visible Churches consist of none but Visible living members, and visible Saints under Christ the King of Saints. But here I would faine know the reason why it is necessary that the members in a particular Church, should be of better metall then the members of a National Church, doth not God require by his precepts, as much of a National Church, and say as much of them, as of a particular Church? See *Exodus* 19. 4, 5, 6, 7, 8. how often is that Priest on the National Church of the Jewes, Be ye holy or Saints, for I am holy: The very same charge that is prest on Christians, 1 *Pet.* 17, 18, 15, 16. where no more is required of the members of Christian particular Churches, then of the members of the Jewish National Church, and are not the members of the Jewish National

An Answere to the

natall Church called holy or Saints, aswell as be com-
manded to be so? How often is this reason given by the
Lord, for you are an holy people: See Deut. 7, 6, & 14 vs 21,
& 26, 19. And many other glorious things are spoken of
the church of the Jewes. I.e. 2, 5, Ps. 135, 4. And was not Christ
their King? Psa. 44, 4. If he were slayne from before the Foun-
dation of the world, and the Reaceemer of the Church under the
Law, was he not then King too? What difference then
doth Scriptures make betwene the members of a Na-
tionall and particular Church, and who dares distin-
guish where the Scripture doth not? If they Answere
that the Nationall Church of the Jewes were holy in
Profession, or are called holy in regard of somwhat were
so indeed, the denomination being from the better part;
will not, nay must not that answere serve us? were all
the members of the Apostolicall Churches Visible
Saints, otherwise then by profession? what shose that
were carnal in Corinth? Cap. 3, and defrauders and scan-
dalous contenders too? C.6. Those that were drunk whē
they came to the Sacrament too? Those that denied
the Resurrection too? 1 Cor. 15, 12. and those that had
not repented of their uncleanness, fornication, and Laf-
civiousnesse too? 2 Cor. 12, 21. And those that tradn-
ced the Apostle too. Cap. 11. Then what shall de-
ny the visibility of a Saint, or a living member? So I
might aske touching some in the Ancient holy Church
of Rome, Romane 16, 17, 18. And the like of some in the
Church of Philiippi, Cap. 3, 18, 19. So likewise in the
Church of Sardis, Revel. 3, 1, 4. and Laodices. Revel.
3, 16, &c. Can these be sayd to consist of Saints, or ho-
ly people any more then the Jewes, must they not have
the Title of Saints, in regard of their Profession? or the
denomination from the better part? Can Sardis in a-
ny other respect have the name of a Golden Candle-
stick?

Protestation Protested.

stick? And then I would know againe, for what reason it should be more dishonorable to Christ to be the head of a Congregation that are not all Visible Saints, further then by profession and outward conformity, then to be the head of a Nation, where all are not Visible Saints, or why Christians should be in more danger, for being one by Profession in a Congregational body, then Christ and Prophets, for being one with such as were not Visible Saints in a Nationall body, these I conceive are Riddles to thee: Nay I conceive that though all that doe profess holynesse and life should in duty be so, yet Christ in the parable of the Tares and wheate, shewes it will not be so, and a generall separation is not to be attempted till the end of the world, for the Tares signify the workers of Iniquitie that grow & are to be gathered out of the Kingdome of him who is stiled the King of Saints; and out of what Kingdome but the Kingdome parabolized, *The Kingdome of Heaven*. Mat. 13,24,41. and these Tares were not seuer Hypocrites, for the Servants did discerne them, and tell the Master of them, and not the Master the Servants: nor doth it any way crooke us that the field is interpreted the world, as though the wicked and Godly should be in the world together, but in distinct societies. For this cannot be? Why should the Servants wonder to see the wicked in the world? how could the Tares come after the wheat, as they are said to doe, seeing the wicked were in the world, before the Godly in the Church? see verses 25, 27: *Why should the Servants confabulate the wicked in the world?* What have they to do with those that are without ryea if the wheate and the Tares be thus interpreted, there must by this parable be nothing but wheate in the Church, no Chaffe, no Judas, no hypocrite, for all but the tares are righteous, and shall shine as the sun in the Kingdome

Answere to the

Kingdome of the Father. veres 41, 43. But why then is the Field interpreted to be the world? which addeth nothing to the Argument For good reasons, because the visible Church was not to be limited to Judea, but extended to the whole world that would entertaine it. Secondly, the word of this Kingdome, ver. 19. was to be Preached in the world and by the word of this Kingdome, this Kingdome was to be gathered in the world, in which Kingdome shoulde appeare the Tares with the Wheate. These things are so suitable to Christ's words & scop, that I do not at al doubt but that this is the true exposition of this parable. Nor doth the Argument so confidently held out against it, any whit overthrow it: if you thus interpret the parable say some, you must of necessity exclude all Church Censures, and so crosse other plaine Scriptures.

1. There is no such necessity in it, neither, for its a rule in interpreting parables, we must not extend them beyond their scope, now we must know wicked men are of two rankes; one ordinary, that though they have no grace visible, yet they are formal Professors, not guilty of Crimes, others that are guilty of notorious crimes, as the incestuous person &c. Answerably there may be conceived a two fold separation: One generall of all the wicked, the other speciaall of those that are scandalous. This Parable treates of a generall Separation of all the wicked from the godly, which is here denied to belong to the State of the Church in this world not of the particular Separation of the evill scandalous by some crime which elsewhere is required to be done by Church censures. And in this Answere I am fully confirmed by this Argument, Church censures are an Ordinance that is to be used not only for the separating of Tares, but Wheate for a time, nay sometimes of Wheate, not Tares, for excommunication is for those

that

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that are scandalous, now a man may be in the judgement of charity, godly in regard of his estate in generall, and yet in some particular scandalous, and so need, and deserve excommunication. And a man may be so miserably formal, that in the judgment of charity, hee cannot be deeme'd godly, and yet he may be faire-conditioned, without crime, and without scandal, here the Tares will scape, and the Wheate undergoe Separation, and therefore sith the Separation here inquired of, is of another nature, then that which is effected by Church censures, to exclude Church censures by it, is to rack it, and wrest it, beyond its scope. I have stuck the loog-er in this, because this is the *Cardo Controversie*, the Hing on which the rest is turned, now I proceed. He after makes great complaint of the State of our Church, to which I so far consent, that I could wish with *Jeremy*, my head waster, and mine eyes fountaines, to send forth rivers of teares, for the breakers of Gods Law. But he takes up afterward, and tells us, that like *Sardis*, we have a few names which have not defiled their garmentes, and the way of reformation he prescribes it by separating these few names into a new Church for which he cites 2 Cor. 6, 17.

But stay, is this Christ's way? doth he so counsell the Church of *Sardis*? if so, I will yeeld: if not, is not this way of his humane presumption exalted against the wisdom of Christ? Now Christ's Counsell is so repent of the evill, hold fast the good, ver. 3. to strengiben the things that are ready to die, ver 2. but not a word of separating the few. How dare any then presume to do it? I have often sought, and long, a resolution of this doubt, but could never yet finde it, but this Author thiaketh he hath found a command 2 Cor. 6, 17. Come ou from among them, and he ye separate. A strange thing (saith he) he ye separate, but a strange proofe lay. This is command to

An Answer to the

to Christians, to come out from among Heathen Idolaters, and not to touch any unclean thing should be thought to prove it the duty of Christians to be separate from formal profane Christians, and not to touch any holy thing with them? What proportion is here for an inference? And for my part, I must confess, I have wondered to see men to affirm this, that they will not joyne in holy duties with the Prophane, which yet I see make no scruple to joyne in following vaine fashions with them which was wont to be counted an uncleane thing? But this is further confirmed by a direction to Jeremy, Jer. 13, 20. If thou takest up the plow from the field, but this is likewise as unfit a task for his Bow, for Jeremy lived in a Nationall Church, in which such a separation as here this disputer requires for, he confesseth is not requisite, nor was it practised by Joshua 8, 18. though he had occasion, or by any other. I marvel then that this Author, or any other, should bring this place of Jeremy, to prove their Separation! There is a Doctrinal Separation which is required in every Minister, if he divide the word of truth aright, and that we are bound to as well as Jeremy, and the Godly Ministers do carefully performe: but for such a Separation as this Protestant requires, here can be no ground for, which they affirme was not required from the Church of the Jewes: But it is further affirmed, that after such an Apostacy as ours, Churches must be gathered anew, as when the Apostles planted Churches where the Gospell had not been Preacht, this is onely dictated without proofe, and yet is neither true nor probable, there being so wide a difference betwene our Nation now, and when Joseph of Arimathaea first planted the Gospell in it, when it was purely Paganish; besides, If this were requisite, then must God also give Ministers qualified to gather

Protestation Protestat.

gather Churches, and not only to goe on in the ordinary worke of the Ministry: that is, Ministers indued with extraordinary gifts having immediate callings, to Preach where they will, without the leave of men, with extraordinary assistance, without which ordinarily no liberty can be expected to gather Churches; till therefore I see the like gifts and callings, in some measure, I shall not beleive the like worke or duty to lie on Ministers now.

Bat some may ask what shall then be done?

A. Can we have better Counsell then was given to *Sardis*, by Christ Jesus our blessed Lord and Prophet; and that is to repeat of what hath been amiss; publick humiliation, may fit publike transgression, which the *Parliaments* may be intrusted to apply to this malady, and then not separate from, but labour to strengthen and resifie that which is ready to die. The *Parliaments* are about a great and good worke of removing erroneous and scandalous Ministers, and setting up godly and learned lights every where, and withall, giving or confirming rather power to the godly Pastors, to keepe off those that are unseemly for the Sacrement, by grosse ignorance, or scandalous life; by which meane, Parishes that are already caught, may be quickly brought into for better order, and those that are not, may by teaching be brought to some good measure of understanding, and desire of the Sacrament, and some at least toward Reformation before they be required or admitted to Communion in the Sacrament. But here we have another Quare what we shall doe, where prophanes and ignorant persons are permitted *Pell Mell*; to which he Answereth, that if Gods Ordinance be Prophane (as they are) by ignoram and prophanes persons coming to the Lords Table, then others also that Communicate with them, are guilty of the same prophanerie. What is this so, without any exception?

An Answer to the

tion? profane and ignorant persons profane the Word, and Prayer, and Fasting; and these are Gods Ordinances, cannot we performe this with them, but bee guilty? this is new doctrine. In the Church of Christ to which he did compare day, were the few names guilty of that prophanation which the rest must needs doe? do not the Scriptures show the contrary? Revol. 3, 4. their Garments were unfiled; is there no other way to keep our selves free from pollution, but separation? what if we endeavor to remove the profane? is not that a better course? and that which was the burthen still layd upon the godly? but never that in this case they should separate themselves, or if they can not separate the wicked, but do their part, discovering them, & desiring their ejection, will not that free them from guilt? I thinke it will: and if not, I believe he must not long keepe in any of his new Churches. But the Apostle saith, 1 Cor. 5, 6. *A little leaven leaveth the whole lump*, so shes that are corrupt will leaven all. As That is, If they be accessory to the corruptions of others, not else: againe, how doth heaven leaven the lump, but by diffusing a reall quality into it? now there being two things in sine, the guilt which is a relation, and in this case must come by imputation, and the staine or vitiou[n]esse which is a quality, and in this respect the corrupt will leaven only thus, when he is suffered and countenanced; he is apt to infect others with his ill qualities, from which they shall be safe enough that bewaile and distaste his ill qualities, though they be at the Sacrament with him, yet if they can get assistance, one effect of their distaste should be excommunication: But the Apostle applies it to mixt Communion, ver. 8 but he misapplies that Text which others more fuitably interpret of leading our lives, not eating the Sacrament. And for that verie the *mixt company with fornicators*, its meant of familiarity, not of the

Thus this sentence must be expounded, Gal. 5, 9. in regard of infection with the same evils.

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the Sacrament. For you may see by the two following verses, such an accompanying is there forbidden to a Brother which is allowed with an heathen, and therefore cannot be meant of Communion in the Sacrament. But I hope by the pietie of our *Parliament*, every godly Minister wilbe enabled to keepe off all that be guilty of such crimes, if that will serve the turne, and remove that objection. The place *Ephes. 5, 5, 7.* *Be not partakers* ~~with them~~, is clearly meant in regard of their sinnes, not the Sacrament, as appears by the following verse.

In Answering the next objection, he brings two places to prove that the holy thing of God should not be prophane, but against what adversary? whosoever taught so? but that the prophaning of them by one, should prophane then to others, its denied: his place *Isa 1, 19.* will only prove that G'd rejected their service, whose hands were full of blood, not the sacrificers of the good, else how will he excuse *Isaias* Communion with that Church? or *Christ Jesus* after him, when they were as bad? or where is his inference made or practised by the Prophets or *Christ* from this place, of necessity of separation where the prophane be?

In answering his next quare, he tells us that to Communicate with evill doers is to partake of their evill deeds. This is affirmed, but not proved, nor doe I thinke it ever will, that my doing a good action well upon command of God, with one that doth the same good Action will make me guilty of his sinne; sure I am, then *Christ* and his Prophets, and Apostles, were all sorely defiled. His proose *2 Thes. 3, 6.* is quite misapplied, for its spoken of withdrawing from him in regard of company and respect which is free and Arbitrary, not of the Sacrament, wherein they were not to withdraw from him, but if the quality of the offence did require it, were to put him away.

An Answere to the

In his next Answere he affirmes that no Communion can be had in our Parish Assemblies possibly, without setting up new Churches: But I hope in this he is much deceived as in the rest. He compares us to *Sardis* formerly, yet I hope there Communion might be had without this medicine of new Churches. Nay let there be shoun any example or any precept in the Scripture that in our case new Churches should be erected, and not the old repaired, and brought back to the rule from which they have swerved, and we will yeeld the cause; but if there be no such precept nor example, then in vaine are all such pleas as he useth, for things which Christ hath neither left precept nor patterne of. And when we see God hath heard the Prayers, and blest the Nation for the prayers of the godly in our Churches, as now they stand, and hath made us a people saved by the Lord, who is the shield of our helpe, and the sword of our excellency, more we shal not expect by his new Churches, unlesse he convince the necessity of them, by better evidence out of the word, which when he hath proved, we will never put him to trouble to answere inconveniences, but will with him buckle our selves to digest them; but we will not cast our selves, nor will the wisdom of the state suffer it so to be cast on inconveniences for good mens fancies without Christ's command.

Nor wil we ever object it to be too strickt, pure or perfect, if the rule for it be conuinced, but we will affirme that being its strakter then the counsell which Christ gave to *Sardis*, and different from it too, the presence of purity and perfection is not to be hearkned to, for it is not such in truthe, but shew, because it is not after Christ. Col. 2, 8. The like we say for envying at them, we will blame them that envy at them, if they discover the rule for what they doe, but till then we shall censure them

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Protestation Protested.

we hope by this Parliament. The Discipline of Christ will be set up in every Congregation, and this will be a better or wealthier managed, as the Ministers and members are growne in Christ: if then any Christian be where great scandals are, they may remove to other Congregations that have attained a better degree of Reformation, and this without any breach.

His next quere is what Nationall government shall be set up by the Parliament, for which he heartily prays, that God would direct them in so glorious a work, and blesseth God for such instruments, for such a worke I thanke him for his affection, but yet if his Doctrine of the independency of Churches be sound, this prayer cannot be of faith, for a man cannot pray in faith that men should meddle with that which is not within their sphere or Calling, and sure if independency be a liberty of Christ, all the Parliament hath to doe, is to assert this liberty, and what is more, is but usurpation. Then heretells us that the government of a Nationall Church hath no parterne in the word: the full answere of that I refer to the assertion of the government of the Church of Scotland, which I doubt not but will give good satisfaction to the indifferent Reader. Afterward he discoveres (me thinkes) too much uncharitableness and selfe love. When he affirms, let them have their liberty, and do for the rest what they will, tis indifferent to them, a little more care of the soules of Christians might better agree with those that so far transcend others in onward reformation.

His last objection is inconveniency of independent Churches, if they err as they may, they want means of redressing, which is better set on by the Scotch Assertion, for he hath said more, then he hath well answered, for having named all the means which their independency is capable of, and being conscious it seems that they

An Answere to the

they were too weake. He adds a other that quite destroy the independancy. As first that other Churches may excommunicate them, how are they independant, if under the Iurisdiction of other Churches? or how can they be excommunicated by those under whose Iurisdiction they are not? sure this is worse dependance then under the Presbytery, where a part is only subiect to the whole, but here a part is subiect to a part.

And this second is no better, for if they be under the Magistrate for any Hæresy, why not for all? those that are guilty will not confess any of their Hæresies, for knowne Hæresies, but assert them for truth, and so challenge exception for them, aswell as any, and if that be a known heresy, which is such to the judgment of the Magistrat, then for all heresy they are to be subject to censure, & their indepedacy is a nullity. Thus have I gon through this whole discourse without indeavouring to stifle, but rather sincerely to search out what is truth in every particular. It is my desire and prayer, that I might doe nothing against, but for the truth, rather would I desire that God should bring me forth to the severest sufferings for the truth, then leave me though in simplicity of heart, to oppose any the least trueth. What remaines but that while we that minde the same things, Christ's honour in the salvation of his people, and right performance of his Ordinances, and differ only in the way, labours to keepe Vnity of heart, till we have unity of judgment, and let our Prayers be united at the Throne of Grace, though our persons be in different Societies, that God may persuade the wanderers into the Tents of those, to whom he hath vouchsafed the better light: That God may have the more honour, and we the more strength, & comfort by our free and simple-lese consociation: which may the Lord vouchsafe for Jesus Christ his sake, by the helpe of the Spirit of trueth, leading into al ryght, & plente glory for ever, Amen.

FINIS.

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TO
THE RIGHT
HONORABLE

The Lords and Commons
assembled in Parliament.

The Humble Petition of divers of the Clergie
of the Church of England. *K*

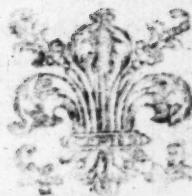
Whereunto is added five Motions with
reasons concerning D B A N E S
and C H A P T E R S.



Printed, Anno Domini 1641.

TO
THE RIGH.
HONORABLE

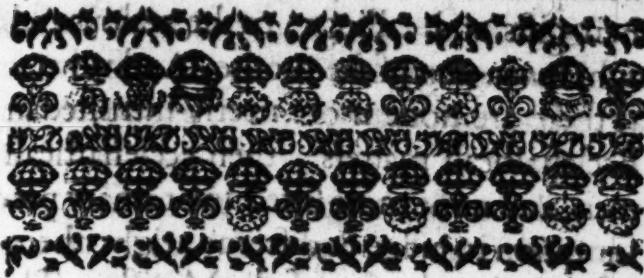
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to the History of the
United States of America
and the Government
of the United States
with a Map of the
United States.



Printed at the Museum.



yd boldare sted han, steram haic olym



on I ymum ali to sial i yd i yd i

The humble Petition of divers

of the Clergie of the Church of

ENGLAND.

Humbly sheweth,

In these latter yeares there is great
danger and blood of Reformation
in the Church of God,
and because as the
good of that reformati-
on is of greatest conse-
quence; to the errors, if any should bee
committed therin, would bee of greatest
danger; and for that the way to prevent
this danger is to commit the worke unto
his proper Agents, that are most engaged by
thee to shewe to Agnes, from their



their speciall interest, and best enabled by their gifts and callings, to the zealous and right managing of the worke. And whereas there are none more neerly intrusted in Ecclesiasticall matters, then ecclesiasticall men, and none more fitted in ordinary presumption to judge & discerne aright thereof, then they that are of the Ministry, The rule of reason requiring That every Artificer should have most credit in his own art, The rule of free policie and societie, That they that are most concerned, should have the greatest share in the work, The rule of God in the Holy Scripture, That matters spirituall should be managed by the advice of the Clergie and ministry, and the constant practice of the Church of God having alwaies steered in that course, wherein it is conceaved there is never to bee found any regular reformation in Church matters, without advice of the Clergie.

Their humble suite therefore unto these Honorable Houses is, that in respect to the rule of reason as they are rationall and wise men, in respect to the rule of free Societie

etic as they are sociable men and principall
guardians thereof, in respect of the rule of
Gods word as they are Christian men, and
in reguard of the continued practice of the
Churc[h] as they are Sonnes to that holy
Mother, They would be pleased to call a
free synod of the Ministry, of these three
Nations together, that those matters that
are in doubt and question may by them be
brought to the Test of the word of God,
and what is to be done, may bee regulated
thereby, that they that are thought fit
for nothing but spirituall employmēt
may not bee excluded from that which is
taken to be the proper and onely businesse
&c.

Entre les deux, mais pas entre eux.

affinis modis, ratiōne. Igitur sicut diuin
monstrum rite obsecrare quoniam nullus est.

... illibet deinde sed in secessu vestrum inveniatur
ad hunc adiutorio filium et quam praecepimus. **Five**

Quodlibet enim habet, quodnamque loquuntur illa in
modi modi in seculi et illud in seculis inde

Some typical exceptions of Non-imperial cities



*Five Motives with Reasons concerning the
continuall Right of the Bishops to be Employed
Deanes and Chapters.*

**That Deanes and Chapters may continue
with these conditions.**

- 1 *That they may be annexed to the parishes
Churches in the great Townes where
the Cathedralls stand.*
- 2 *That they may be elected in those places by
the King, with the approbation of the Clergie,
and cum conscientia populi.*

3 *That they may be enjoyned to preach ordinarily twice every Lords day, at their parish.*

4 *That they may preach every sunday once
or twice in their courses at the Cathedralls.*

5 *That they may be a consilio to the Bishops
in all matters of ordination, and jurisdiction, so
that nothing shall be done without them.*

*So shall the exceptions of Non-employ-
ment*

ment and Non-residence be taken away.

The Bishops absolute authority in ordination and jurisdiction shall bee moderated.

The admittance of unfit men, unto these dignities, shall be prevented.

And all those great Cities shall be furnished with an able ministrey, which as a fountaine of knowledg, may derive it unto the Countrey, with which they have such perpetuall commerce.

FINIS.

The following Note is to be made before the sale of
The British Museum's Collection of Books, Manuscripts,
and Drawings, &c., in the possession of the
British Museum, to be sold by auction, on the 11th instant, at
the Auction Room, in the Strand, London, from the
galleries of the British Museum, on the 12th instant.
A full account of the Collection will be given in
the Catalogue, which will be published on the 11th instant.
London, Oct. 10, 1811.



1811

H 10

THE POWER OF THE CHRIST OF GOD, OR

A Treatise of Power, as it is originally in God the Father, and by him given to Christ his Sonne:

And that considered, as either

1 Reserved and kept in his owne hands.

2 Committed by him to others, whether,

1 Ecclesiastical, for the good, and government of his Church, or,

2 Politicall, for the guidance of Common-wealthes: Together with,

3 Of the Pope, and his Locuts.

3 The power permitted

2 Of the Turke, and his Armies.

In Principles and Conclusions, gathered out of Holy Scripture.

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Licensing of Books, &c.

By Richard Byfield, Pastor in Long-Dition, Surrey.

R Psal. 45. 3. 4.

Gird thy Sword upon thy thigh, O most mighty: with thy glory and thy majestie.
And in thy majestie ride prosperously, because of truth, and meeknesse, and
righteousnesse: and thy right hand shall teach thee terrible things.

L O N D O N .

Printed by R. Cotes for Jo. Bellamie, and Ralph Smith, dwelling at the
signe of the three Golden Lyons, in Corn-bill neer the Royall Exchange.

1641.

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The power of Godship, size 12,
is printed at the expense of the
Baptist Church of the City of
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TO
**THE RIGHT
VVORSHIPFVLL**

S^r EDWARD DEARING,
Knight and Baronet, one
of the Knights of the Honou-
rable House of Commons in Parlia-
ment now Assembled, wisedome, coun-
sell, courage, zeale and the feare of the
Lord with grace, mercy and peace
bee multiplied.

Rig't worthy S^r and much Honoured,



These lites present themselves
to your gentelnesse, to begge
pardon for my twice-adven-
tured boldnesse: the one in
offring to your private view
this Treatise, such as it is:
the other in thrusting it un-
der the wing of your Name while it goeth pub-
liquely.
* 2



The Epistle Dedicatory.

liuely abroad : your learning, love of the publique, zeale for reformation of corruptions in Religion both in persons and causes Ecclesiastickē, and just detestation of Antichristian Tyranny in those that would be accounted Fathers of the Church, doe winne deservedly the hearts of those that never saw your face. These have drawne me and this little worke into your presence. Did not this Speech sparkle from some heavenly fire within ? *The more great, the more eminent our perills are of this world, the stronger, the quickeſt ought our care to be for the glory of God, and the pure law of our Soules.* Such beames of light are our beauty : such beames it is easy to read from *what ſunne* the ſtreame, who being once fixed in the heart maketh the path of the righteous ſhine more and more unto the perfect day. It was the praise of the Church of Epbeſus, *Thou canſt not indure**.

Persons of a publique ſpirit, tending chiefly the good of the communion of Saints, are a blessing that entails upon us blessings. And the day in which this publique ſpirit moves them, and comes upon them, is the very first day of the yeare of blessings : *from this day will I bleſſe you**.

* *Hagg. 2. 19.* These are trees whose ſhade and fruite is cooling and sweet ; these trees of knowledge and trees of life, are the choicest trees in Gods Garden, whom God thus honoureth to ſe as instruments of his glory, for the good of his Church ; the more they are carried with ſelfe-denyal, and the faster their Soules are bound that they cannot depart an haire birde from his ſacred revealed truth,

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truth, the more precious are they in the eyes
of the Lord and the more honourable among the
Saints.

Now seeing the Lord, hath separated you from
your brethren to sit in that honourable assembly,
give mee leave to speake a few words to you,
which by this meanes may come to all the rest.
The high Court of Parliament consisting of the
House of Lords, and the House of Commons,
brings to minde the Gowne of *Alexander the
Great*; in which was elegantly expressed the
firmament together with the fixed Starres. Your
influence is the life of the State. Three King-
domes depend on you at this present; all the
Vessels of greater and lesser quantity*. You have * *Esa. 22. 24.*
asked, in solemne fasting and prayer seeking the
Lord, and you have beeene heard and guided in a
right way for the removing every burden and
undoing every yoke from the neckes of the peo-
ple; herein like the *Pelican* (by your unwearied
paines and great personall charge in attending
the publique) who fetcheth bloud out of her
owne breast to feed her young; for the law and for
the people are you all that you are. You no lesse
asked of God a right way for the redresse of e-
vills in the Churches. And now the great af-
faires, to cleanse the sanctuary, to gather out the
stones out of Godsvineyard, that the Vines may
flourish and yeeld faire clusters of pleasant
Grapes, to advance Christ's Seepre, that Christ
may raigne, and Antichrift not winne, but lose
his hopes here for ever: these, these, the weight-
iest

*Pro lege &
guge.*

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tieſt that ever Parliament in England had in hand, are your preſent, your chiefeliſt workes. In this the Lord hath alſo heard your prayers and reaſereth forth his hand to lead you. You have the greateſt help, the ſureſt light, the exacteſt rule, perfeſt and ſhort, the holy Scripture. If you take what is there iſtituted, and ſo eſtabliſh it, as it iſ there ordered, according to the utmoſt light you can attaine unto, and ſetting by all that iſ, merely humaſe, doe roore out whatſoever cannot by all the wit and reading in the world be found out to fasten its rootes in the New Teſtament, and ſo in Heaven, then you goe ſurely, you ſtoppe the mouthes of cavillers, you take away the ſnares of mens conſciences, and the very materiallſ whereof men make ſnares and neſt to catch the righteous, you ſow the ſeeds of union, and blaſt all ſchifmes and diſiſions. When Saran hath kept any ordiñance of Christ out of the Churcheſ, wee ought by all meaneſ to labour the reſto-ring thereof. The way and meaneſ whereby it may be done with fruit, conſiſtereth partly in deſtrine, wherein the Minifters from Chriſt and hiſ Apoſtles authority and example may perſuade with mens conſciences, and may teach that it pertaines to a true and perfeſt reformation of Churcheſ to enteraine the ſame, and partly it conſiſts in the command of the Magiſtrate, chieſely of thoſe in whom iſ placed the Legislative power. Kingdomeſ as well as particular perſonſ ſhould alwayes grow better, and not be of the Laodicean temper: and when the inquiry of the times inforſe

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inforce and necessitate a Reformation, then is
the season to bee pressing towards perfection; Natura pudentia
ad mortalia
transire Ep. 31.
Actus.
neither ought wee to be ashamed of this change,
for as Ambrose saith to the Emperour Valentinian,
it is no shame at all to passe over to the better.
Where God giveth power and authority, he may,
and doth often in his wisedome place them un-
der ignominy and bury them out of sight as free
among the dead, and cut off and swept away from
the land of the living: thus he dealt with Christ
himselfe, thus with his adopted children, thus
with his faichfull witnesses under the raigne of
Antichrist. The power and authority is not to
be judged of by the glory that attends it, (for then
Antichrist may passe for Christ, and the mother
of Harlots, for the chaste spouse of the Lambe the
Lord Iesu) but by Gods Institution, for the office,
calling and order, and by Gods iudicacion for the per-
son sent and called of God to that place and of-
fice. It is our part to owne that which is Gods
though rayled to a Croſſe, and accuſed of the
world. If wee consider that God is the vindica-
tor of all lawfull power, the reliever of the oppreſſed,
and the abaser of the usurper and of the
proud, wee will take heed of partaking with the
crucifiers of any institution of Christ, for where
God gives power and authority, he will not al-
wayes lay them under contempn, but will in due
time give glory beſeeming that power.

The christian world is moved at this day. The
shaking of Kingdomes boden much. It is a ſure
Maxime, that (ſeing the Lord that ſpeakes in the
Scriptures,

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Scriptures, he onely is God) the Divine providence ruleth all things to accomplish the word. God fulfills with his hand what he hath spoken with his mouth. Now it is a chiefe principle of Policy which the unbelieveing world is not capable of, to consider *the times* in which wee are, and to discerne *the signes* of those times, that wee may have nothing to doe with the things which the cleare truth of Scripture shewes to bee fatall.

These are *the times*, in which that voice hath sounded, and the shoute increaseth, Babylon is fallen, is fallen : the times in which Antichrist is going into perdition. The King that will now be victorious, is he that beareth his sword of two edges in his mouth, and hath on his thigh his name written, *The word of God*. Nothing will remaine sacred and safe in the Christian world, but what hath this Imprese on it, it is the word of God. Nothing will stand fast in this earthquake save what is of the *Zion* of the Lambe: now what beleeving State under Heaven is there, if not smitten with a spirit of giddinesse, but would beware that they partake not with the Romish *Babell* in either her lies, or fornications, or usurpations ? It were greatest folly to come under the poynct of Christ's sword. And if there be any thing that lyeth fatall upon us by reason of our communion with Antichrist former, or now present, cast which way it may be sooneft and best passed over. This is one of the kingdomes that received power with the Beast one houre or the same

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same hour. What shall wee doe in this regard ? Cast the government on Christes shoulders, give up the keyes to him, lift up your heads yee everlasting Gates, that the King of glory may enter in : and for what hath beene past, in publique humiliation and nationall, let there be solemn fastings and weepings injoyned by his Royall Majestie and the high Court of Parliament, (if the Lord put it so into their hearts, for which I doubt not but all good Christians will humbly pray) and they the first and exemplary in the worke, because never yet to this day hath there been such a day of humiliation, for our shameful spirituall Aduleries with the Whore of *Rome* or mysticall *Babylon*. Either wee must be of those that hate the Whore, or of those that lose with her and lament for her : When all the Apostles rejoyn over her, and the Heavens sound *Hallelujah's*, shall wee bewayle her ? The signes of the Times are cleare. This is the day of severing marvellously betweene Christian and Christian, betweene Israelite and Israelite, betweene the poore in spirit that tremble at Gods word, and the proud pompos *Pharisee*, that place all Religion in a materiall Temple, in worldly glory as the best dresse of piety, in outward performances, in observations of mens traditions, in a forme of godlinesse, and under it deny, hate, and persecute the power of godlinesse. The day of severing began in the ministerie, as testify the Pulpits and the Presse, in a searching fanning ministry, rightly dividing the word of God, not Logically alone,

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alone, but Theologically chiofely, such as is not seen in any other of the Churches in the world, such as was never scene in the Christian world through all the ages of it, sauing that of the Apostles: and this day is now begun in the handie worke of Gods highe and holy providence. This is the day of returning the prayers of many yeares, of many ages from *wickliffe* down-wardes. This is the day when in the spirit of grace and supplications is powred out on our Churches. This is the day of visitation, in which the hand of the Lord is made knowne for his servants, and his indignation against his enemies. This is the day wherein the splendor of the truth, and the power of the spirit of God manifesting it selfe therein, shall be as fire to consume the wood, hay, and bubble t uile upon the foundation, not the *Papish*, bur the *Papist's Purgatory*: what becomes such a day, let your wisedomes consider. When the Lord proclaimeth unto the end of the world, say yee to the daughter of Zion, behold thy salvation commeth, joyne with the Lord and feare not; behold, his reward is with him, and his worke before him.

Sir, let mee freely say concerning this that I have now written, no conceitednesse of any word that I could say to informe that *grand Counsell*, but a heart humbly congratulating your present worke you have in hand, hath conceived and brought forth these rude thoughts. As oft as I thinke of the worke of Reformation now begonne, that prayer of *David* with a little variation,

*Cor. 3. 12.
13. 1. 15.*

Eph. 6. 11.

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lion, I remember and would faine lift it up even
to Gods Throne, and in confidence of faith sing it,
The Lord will perfet that which concerneith us; Thy Psalm. 138. 8.
merry O Lord endurhest for ever: forsake not the
worke of thine owne hands.

Your Worships

to command

in the Lord,

Richard Bystedt.

A 2

The



To the Reader.

Deare Christian,

He line of Power is of most usefull consideration, for if wee consider it in the originall and fountaine of it, which is, God in Christ, wee can not easily cast off the authority, nor despaine of the maintenance thereof against conuersers of it, nor doubt of the efficacy of it to attaine the ends for which it was ordained, nor debase the excellency of it, though it hath lyen among the Pots, though among the skulls in Golgotha. When wee looke on the institutions of the Lord Jesus, wee are ready to say, either as the children of Belial said of Saul the King-elect, How can this man save us? how can this be the meanes to governe the Church? or else in Pilates Language to our Saviour, Art thou a King then? art thou a branch of the scepter of Christ the Lord of Lords? But turne them and winde them, and see if they bee not borne from above, see if they be not truly, though spiritually, regall, see if they savor not wholly of the simplicity that is in Christ: here you may see what ye doe when ye speake against the Presbytery, the power of the Pastor in the Congregation, the power of the Church,

To the Reader.

Church, the Discipline, &c. they defie the power of Christ, they defie the armies of the living God, as David sayd to Goliah the uncircumcised Philistine.

If againe wee consider it in the branches of this power, is directed vnto, to give to God the things that are Gods, what to pray for, what to strive for by all lawfull meane. It shewes how and where Christ's power is usurped upon, that no man may take power above what is written. It shewes when wee pervert order, when wee confound the things and powers that bee distinct. Here wee may see Congregations, Churches and Pastors, spoilt, and robbed of their power, the Presbytery Gods owne Institution kept vnto, as a Bastard, from the Churches of Christ amongst vs, Excommunication according to the Gospell never knowne here since the Reformation. The specialty of double honour placed on those that arrogated to them rule, as upon our Arch-bishops and Bishops, Deanes and Arch-deacons, which shoulde bee especially given to those that labour in the word and Doctrine. These Bishops taking on them Apostolicall power, and power of Evangelists, but neglecting their owne places and gifis, as they are Presbyters and Pastors; these many the like fruitless mayest thou reape by this Draught: I will adde but this one more which is the maine scope and prayer of the Author, unity of judgment and peace: for the truthe knowne and held, is the great preserv'r of peace.

The manner of writing which thou seest, not
Monyd. 1. 1. A 3 fluent.

To the Reader.

fluent in style, nor cloathed with words and phrase I chose purposely (though somewhat I confess must bee needs attributed to my Genius) because I seeke the truth, and in this way the naked proposal of the thing makes it by every eye more subject to discovery if false, to perfecting if defective, to apprehension if sounding the truth distinctly and fully : whereas the florid of oratory do carry away the affections, and carry downe many things of any sort, and so hinder the judgment that a man cannot finde where to fasten his foye. Here you are not sent to hunt the Partridge in the Mountaines, or the Dier in the Forrest, but you are brought to the very nest and seat of the thing. The brevity helps the memory : and though it may seeme to bring obscurity, yet a conuerted light, if one heed it, doth more enlighten. My style is barren, but not so the Treatise : What should I deliver in two words, that which may be sayd in ones ?

I say no more at this time, my prayer is that the Lord would heale all the disfunions in the hearts of those whose faces are set towards Zion, and give us grace to flee the manifest workes of the flesh, such as schisme is, and in these knowyng times, that the Lord would incline our hearts to practise that rule of the Apostle Iames, that whosoever is (as he thinks) a wise man, and endued with knowledge amongst us, He would shew out of a good conversation his workes with meeknesse of wisedome.



Thine in the Lord

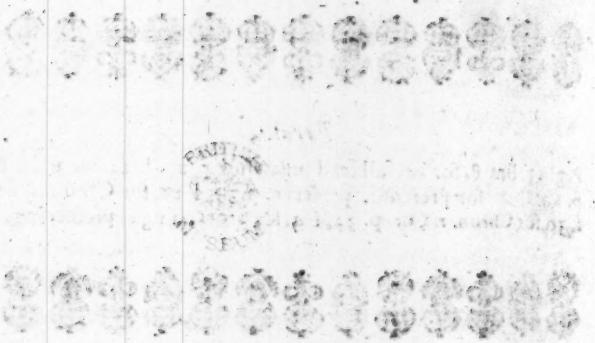
Richard Byfield.



Errata,

Pg. 13. line 8. for lawfull read unlawfull. p. 27. l. 22. for and. &c. &c.
p. 29. l. 3. for present r. preserve. p. 31 l. 28. for Chron. r. Cor.
l. 30. for Chron. r. Cor. p. 33. l. 4. for proceeding r. preceeding.





The Table.

All power is the Lord's which power he hath partly

Reserved to him-
selfe;

By and from him :

Given to
Christ; so all
Authority
and power
is his; and
it is

In him also,
as all spirituall
power is; and
this is ei-
ther

Passest over
to others ;
and this re-
spects

Every mans
private : and

Kept in his
own hands :
of which
there are
fourteene
branches, as
the power

The Pub-
lique : and
this is

Permitteſt, as

the power of

1 An excep-
ted power in
things of
this life :
which is either

2 A glorious
spirituall power, the peculiar power of believers,
or true Christians ; which is both

Personal, and that four fold
1 Power in owners over their tem-
porals.
2 Power to Marry, and to use any of
the Creatures.
3 Power not to Marry, issuing from a
speciall gift.
4 Power of the Female sex.

Coniugal.

Defensive.

Offensive.

1 The power of predestination, Rom. 9. 21. Mat. 20. 23. Man to God, as the clay to the Potter.
2 The power of giving the knowledge of the distinct times and moments of Seasons ; as of the day of judgment when it shall be, and the like, Act. 1. 7. Mark. 13. 32.

- 3 To have life in himselfe, and to judge the world.
- 4 To judge men in this life in some sense.
- 5 To cast into Hell.
- 6 To put into the number of adopted children.
- 7 To free from Hells power, and make free of Heaven.
- 8 To place in Christian liberty.
- 9 To be head of the Church.
- 10 To deliver Doctrine for substance and efficacy.
- 11 To be the Priest of the Church.
- 12 To be the chiefe Shepheard and Bishop of Soules.
- 13 To forgive sinnes judicially, and loose the bandes of diseases.
- 14 To institute or constitute, worship, ministracy and Church-government, and to give the successe.
- 15 To avenge to destruction.
- 16 To send Plagues for the ruine of Antichrist, and that cursed state.

To Angells.

Ecclesi-
astical

For the first Plantation of the Gospell, four fold :

The power

- 1 Apostolical.
- 2 Of Prophets.
- 3 Of Evange-
lists.
- 4 Of the Primitive believers.

For the Propagation of it afterwards, four fold :

The power

- 1 Of the Ministers or Pastors.
- 2 Of every Congregation.
- 3 Of the Presbyterie.
- 4 Of Synods.

Politically, as the power of the Magistrate.

To men,
and is

Committed

The Pub-
lique : and
this is

Permitteſt, as

1 The Pope, and his Locusts.

2 The Turke, and his Armies.

Personal, and that four fold
1 Power in owners over their temporals.
2 Power to Marry, and to use any of the Creatures.
3 Power not to Marry, issuing from a speciall gift.
4 Power of the Female sex.

Coniugal.

Defensive.

Offensive.





THE
POWER OF
THE
CHRIST of GOD,
OR
A briefe Delineation of Lawfull
Power, in Principles and Conclu-
sions, gathered out of holy
Scriptures.



1 Power is the Lords, to give
where and as he pleaseth : and
he hath given it all unto Christ
to be exercised and disposed of,
for the good of his Elect.

1 All Power is the Lords.

Thine, O Lord, is the great-
nesse, and the Power, and the
glory, and the victory, and the
majestie, for all that is in the Heaven, and in the Earth is
thine; thine is the Kingdome, O Lord, and thou art
exalted as head above all, 1 Chron. 29. 11.12. Mat. 6.12.

2 He hath given it all to Christ, &c.

B

All

A Treatise of Power,

All Power is given to mee in Heaven and Earth,
Matth. 28. 18. As thou hast given him power over all
 flesh, that he should give eternall life to as many as thou
 hast given him, *Job. 17. 2.*

1 By *Power*, here is meant, not ability, but authority ; not might, but right; not *Syrapus*, but *iξυαία*: as those texts, *Matth. 28. 18.* & *Job. 17. 2.* doe shew.

2 Christ also is here considered, not as the second person in sacred Trinity, the eternall Sonne of God : but as God-man, as Mediator, as in office, as the Lambe, *Revel. 5. 12. 13.* Worthy is the Lambe that was slaine to receive power.

3 By *All*, is meant all power over all men, *Job. 17. 2.* all things, *Ephes. 1. 22.* all principality, and power, and might, and dominion, and every name that is named (name of authority, note and renoume) not onely in this world, but also in that which is to come; v. 21. things in Heaven, in earth, and under the earth, *Phil. 2. 10.* the quick and dead, *Rom. 14. 9.* Lords and Lorders, i. *Tim. 6. 15.* Hell and death, *Revel. 1. 18.* and 19. 16. and 20. 14. *1 Cor. 15. 26. 27.* All things are given into the hands of Jesus Christ, *Job. 13. 3.*

4 Onely the Scripture mentioneth two things which God hath reserved in his owne power : the one, the power of predestination, in Election of some, and Reprobation of others, the power like that of the Potter on the clay. Christ is to give eternall life to them that the Father hath givien him, and not to them for whom it is not prepared of the Father, *Rom. 9. 21.* *Matth. 20. 23.* The other is the power to give the knowledge of the times and instants of seasons precisely, as of the day of Judgment, or the like, *Act. 1. 7.* *Marke 13. 32.*

But here wee consider this power given to Christ, as in the exercise of it, it hath respect to men on earth; and so to proceed.

2. All Power, or Authority respecting men in this world, is either Temporall, (which wee call civill) or Spirituall:

Spirituall : and both these are of God, and by and from Christ, albeit not without some difference.

1 Temporall power is first of God, Rom. 13. 1. 2. there is no power, but of God, Joh. 19. 10. 11. secondly, it is also by and from Christ ; for from Christ are these four.

1 The gifts for Government: Prov. 8. 14. Counsell is mine and found wisedome, I am understanding, I have strength, (meaning, for Kings, Princes, Nobles, and Judges.)

2 The Dignity and calling: Prov. 8. 15. By mee Kings reigne, and Princes decree justice; by mee Princes rule, and Nobles, even all the Judges of the earth.

3 Power to subdue the people under them, Psal. 18. 47.

4 Obedience to it. Christ first teacheth it, Mat. 22. 21. Render unto Cesar the things which are Cesaars, Tit. 1. 3. and secondly formeth it inwardly in the heart, 2Chron. 30. 10. 12. bowing it by a sweet and efficacious touch, 1 Sam. 10. 26. 27. and thirdly subjecteth every soule unto it, Rom. 13. 1.

To despise Government, and teach contrary to this *Conclus^f. 1.* Doctrine, is not onely wickednesse, proving men to bee the *children of Belial*, 1 Sam. 10. 27. but also *Antichristian* wickednesse, 2 Pet. 2. 10. Jude, 8.

To exalt ones selfe above all that is called God, is the Character, the peculiar property, and singular pride of Antichrist, the *man of sinne*, 2 Thes. 2. 3. 4.

Yet here wee must remember, Christ hath not any Temporall Kingdome, Job. 18. 36. My Kingdome is not of this world : (sayd hee to Pilate) If my kingdome were of this world, then would my servants fight, that I should not be delivered to the Jewes, &c. The Father gave him not any. The Devill, that lying tempter offered it to him, but he refused it, Mat. 4. 8. 9. 10. Men, even the Jewes would have bestowed it on him, but he rejected it, Job. 6. 15.

But Christ requireth, that all Kings and Magistrates

A Treatise of Power,

use all their power to maintaine his Gospell, his worship, his Ordinances, and his people: and threatens to break them else, Psal. 2. 8. 9. 10. 12.

Conclus: 1.

The Bishop of Rome taking to him Imperiall power, and power to order and dispose therof, turned Beast, (for a minister meddling with Civill power, turneth Beast) Sea-beast, or Sea-monster, or else Land-beast, Leopard, Bear, Lyon-like, or Dragon-Lambe-like. What Christ refused, he receiveth from the Devil. The Dragon giveth him his power, his seat, and great authority, Revel. 13. 1. 3.

4. 5. 7. 12.

2. The ten Kings grievously sinne in giving their power to the beast, and debase their dignity in suffering the Whore of Mytchall Babylon to ridetum, Revel. 17. 12. 13.

The comfort is, first, The Lambe shall overcome them, oh blessed victory! and when? secondly, The words of God shall be fulfilled (oh when shall they have done service enough for the Whore and to the full?) These shall hate the Whore, and shall make her naked, &c. Revel. 17. 14. 16. 17.

2. All Spirituall power is also of God, by and from Christ alone, 2 Corint. 5. 18. And all things are of God, (that is, as the words before and following shew fully) all things that are become new, all renewed things under the New Testament, in the Kingdome of Christ, as well as the old things of the Old Testament; The whole works of Regeneration, the spirit and the gifts and graces thereof, and the ministry of the New Testament is of God, of God in Christ: as it followeth in verse 19. God was in Christ, reconciling the world to himselfe, not imputing their trespasses unto them, and hach committed unto us the word of Reconciliation. God is no wheres to be found (mercifull to sinners, forgiving them and reconciling them to himselfe) but in Christ, and through Christ from God are all things that can be any way useful in the regeneration: When the

the Apostle speakes of the Creation, he layeth downe this maxime, *All things are of God*, 1 Cor. 11. 12. The very same he avoucheth here in the Regeneration, *All things are of God*: not under that notion as he isthe faithfull Creator, but considered, as Redemeer, as God and Father of our Lord Jesus Christ, as God in Christ, all things, and in speciaall the ministry.

3 Notwithstanding though Magistracy and ministry bee both of God by Christ, yet they are so with this Difference.

1 Christ giveth Magistracy, and maintaines it, as the Ordinance of God as Creator, and it respecteth men as men, as creatures: and it is use without the Church, but Ecclesiastical power is the Ordinance of Christ as the Mediator, properly and in ordinary way respecting the Church, or men as Christians, and is from God as the Father of Christ.

2 Magistracy is a humaine Creation, *independente*, it receives its institution from men, 1 Pet. 2. 13, whether the forme of Government, as Monarchy, Aristocracy, or Democracy, or variously mixt of all three, or the divers kinds of offices, degrees and callings, as Kings, Emperours, Dictators, Consuls, Triumvirs, Dukes, Marquesses, Earles, Barons, Knights, Privy Counsellors, Judges, Justices of the peace, Maiors, Sherifffes, Bailiffes, Constables, and the like: or Courts, as Councilbeare, Chancery, Kings-bench, Common-pleas, and the like. But in the Church and in Christ's kingdomme, the ministry is, of God, of divine institution, and all lawfull spirituall power is, of God, of divine institution, neither can be called a *humane creature*, or *mans Ordinance*.

3 Magistracy is with Empire, and this Empire passeth from one to another in a succession, either hereditall or elective: But all spirituall power in ministry, ministeriall, in regard of the men under that power (for in regard of God both Magistracy and Church-power is ministeriall).

ministeriall, Rom. 13. 4.) and in Christ alone and for ever remaines the Empire, which he never passeth over to any; for whereas the civill power hath an arbitrary sanction of Lawes, and execution of rewards and punishments corporall, Rom. 13. 4. he beareth not the Sword in vaine. And ought to be honoured not only with subjection and reverence, but also with paying Tribute, Mat. 22. 21. and 17. 27. Rom. 13. 6. The Ecclesiasticall power hath a bare and naked opening, pleading and applying of the Law or written word of God, and the execution of those punishments and rewards, alone, which are contained in the expresse word of God. Magistracy is called Dominions, 2 Pet. 2. 10. Dignities, Jude 8. Principalities, Tit. 3. 1. which are not attributed to the ministry; they are Ministers, Stewards, Servants, 2 Cor. 4. 1. 2. Heb. 3. 5. The magistracy prescribes many things by its owne power under God. But the Church only by the power of another, that is; of Christ, can prescribe any thing.

4. Magistracy procures the common good by civill meanes, and by a Coercive power: as by mulcts, fines, imprisonment, the sword, Rom. 13. 3. 4. 1 Tim. 2. 2. But the Church-power by spirituall weapons, and with spirituall meanes, the spirituall good, 2 Cor. 10. 2. 3. Heb. 13. 17. as by admonition, denunciation of Gods threats, and excommunication.

5. All plenitude, or fulnesse of Spirituall power, and Authority is wholly in Christ the Mediatour: and disposed by him as he pleaseth, Coloss. 1. 19. for it pleased the Father that in him should all fulnesse dwell.

6. In him alone is the fulnesse of all things pertaining to salvation, Job. 1. 16.

7. In him alone is there a convenient symmetry, and suitable proportion to the Church: and union and conjunction with it, Ephes. 4. 16, from whom (that is, from Christ) the whole body fitly joyned together maketh increase.

8. From him alone is there an efficacious influence by

Kυριότητας,
δέξαι, ἀσχαί.
καρπάτας, ὄντος,
γονοτος, δεσμο-
τοτεσ.

by his spirit into the whole body of the Church, communicating all spirituall good things to her for her quickning, governing and defending both inwardly and outwardly to her salvation, and to the glory of God, *Ephes. 4. 15. Grow up into him in all things which is the bread, even Christ.*

Christ therefore alone and only is above the Church. *Conclns:*
In all things he hath the preeminence. All others of what order, power, place soever are but members of the body, parcells and parts in the flocke and building: they are not of eminency above the Church of God, but ministers *above* the Church of God, *1 Cor. 3. 21. 22. 23. for all things are yours, and ye are Christs, and Christ is Gods, Coloss. 1. 18.*

This power spirituall is either kept in his owne hands, or passed over to others for the good of his Church, *2 Cor. 5. 19.* he hath committed to us the word of Reconciliation.

4.

There was in Christ a power, which wee may call *personall*, the power to lay downe his life and to take it againe, of which in *Job. 10. 18.* that he might neither bee counted prodigall of his bloud, nor yet bee forced to die, but willingnesse and obedience to the commandement of his Father might be eminent in giving his life for us.

Christ keepeth in his owne hands the power following;

5.

First, To have life (spirituall and eternall) in himselfe, (as in the wel-head or fountaine, *Psal. 36. 9.* with thee is the *Well* of life) and to judge the World, *Job. 5. 27.*

Therefore, seing wee neither have, nor can have, no *Conclns:* life from the first *Adam* but this fraile temporall life, which is but a vapour, we should, first, come to him (sensible of our dead estate in *Adam*, void of all hopes elsewhere, giving up our selves to the word of life, and spirit of life, which workes therein, and is given thereby by

by covenant, and besyng : wee shoulde thus come to him) that wee might have life, *Job.* 5. 39. 40. And wee shoulde, secondly, abide in him (by keeping his words abiding in us) that we may continue and persevere, as ever wee meane to have eternall life, *Job.* 15. 5. 6. 7. And seeing wee must appear before this Judge, wee shoulde approve our selues to him in all things according to his Gospell.

Secondly, To judge men in this life.

- 1 Of the secrets of their hearts, *1 Cor.* 4. 5.
- 2 About things indiffrent, *Rom.* 14. 4.
- 3 Of their fynall estate, *Mat.* 7. 1. Judgment of *Condemnation*, Christ condemneth, *Luk.* 6. 37, but not that of *Discretion*; whereby wee discerne of the waies and courses of others, without which wee cannot practice the chiefe rules of Christianity, *1 Job.* 4. 1. *Psalm.* 1. 2. and 50.

4 As a Master; masterlines is condemned, *Lam.* 3. 1. wee ought to judge as the word judgeth, and with charitie, not of malice, envy, desire to defame, &c. wee may not for a Moate, but for beames only may we judge the present estate of our brethren to bee either under the power of unregeneracy, or dangerously fallen; yet he that hath no beame in his owne eye, ought to helpe the moate out of his brothers eye, *Mat.* 7. 3. 4. 5.

Thirdly, To cast into hell, *Luk.* 12. 5. therefore his feare shoulde bee in us above all the feare of men or Devils.

Fourthly, To put into the number of adopted children to God the Father, *Ioh.* 1. 12.

Fifthly, To free from Hells power, *Revel.* 20. 6. and to make free of Heaven, *Revel.* 22. 14. to seate in autho-
rity Spiritually-regall, *Revel.* 2. 26. & Spiritually-priest-
ly, *1 Pet.* 2. 4. 5. 9.

Sixthly, To place in Christian liberty, *Ioh.* 8. 36. 1
Cor. 8. 9. and 9. 4. 5. 6. In which therefore wee shoulde stand fast, and not be intangled againe with the yoke
of

Ecclesiastical and Civill.

of bondage, 3 Cor. 4. 12, Gal. 5. 1, I will not be brought under the power of anything, should the Christian say.

Seventhly, To bee head of the Church: he is the alone and only head, Bridegroome, Husband, Houholder, Father, Master, Lord, King, Monarch, and foundation of the Church of God, and Gods Vicar. It is his incomunicable glory,

1 To give Lawes: there is one Law-giver, Jam. 4. 12.

2 To rule over the consciences of men. Thine ar-
rowes are sharp in the heart. Thy throue, O God, is for ever and
ever. The Scepter of thy Kingdome is a right Scepter. Heaken, O
daughter, consider, incline thine eare, forget also thine owne
people, for he is thy Lord and worship thou him; to subject the
conscience to one is the highest worship: and to dos it
to a mere creature is the greatest Idolatry, Psal. 45. 5.
6. 10. 11. The whole Councells straight charge to the
Apostles, not to preach in Christs name, which thing Christ
in fulnesse of his authority had commanded them,
Mat. 28. 18. 19. received this answer, wee must obey God
rather then men, Act. 5. 28. 29. Esa. 8. 6. 7. God (only) is
greater then the heart, and knoweth all things, 1 Job. 3. 20.
21. the kingdome of God is within us; and it is righteousnesse, peace and joy in the Holy Ghost, Luk. 17. 21.
Rom. 14. 17.

Therefore that part of the argument of the Psal. 149. Conclus.
set downe in these words, the Prophet exhorted to praise
God for the power, which he hath given to the Church to rule
the consciences of men, favors of spirituall pride and An-
tichristian tyranny. It is the argument in our Bibles
of the last translation, fit to be expunged.

Eighthly, To deliver doctrine, both for substance, Καθηγησις.
Gal. 1. 8. Matth. 15. 9. and so wee may call no man,
Father, Master, or Doctor, Matth. 23. 8. 9. 10. And for
efficacy: Paul may plant, and Apollo water, but it is God
that gives the increase, 1 Cor. 3. 6. and to open the book
of Prophesies the Lambe only was found worthy, Re-
vel. 5. 5. 9.

C

Ninthly,



Ninthly, To be the Priest of the Church: he hath an unchangeable priesthood both for sacrifice and for intercession, *Heb.* 10. 12. 14. by one offering hath he perfected for ever those that are sanctified, *Heb.* 7. 24. but this man, because he continueth ever, hath a Priesthood that passeth not from one to another. Seeing he ever liveth to make intercession for them, verse 25.

Conclus: I.

2.

There is therefore no order of *Priesthood* under the New Testament, that hath power to offer sacrifice for the sins of quick or dead, or to doe any other office of a Priest. This Priesthood is from Hell and of Anti-christ.

There are no Mediatours of *Intercession*, neither the blessed Virgin, nor Saints in Heaven, nor Angells, no more than there are Mediatours of *Redemption*. Christ is the one only Mediatour both of intercession, and *Redemption*.

Tenthly, To bee the chiefe Shepheard, *1 Pet.* 5. 4. or Bishop, *ἐπίσκοπος*, that *Pastor*, whose Sheep are his owne, *Job.* 10. 11. *Ἄρχισπειρον*, the *Arch-shepheard*, *1 Pet.* 2. 25. *that great Shepheard*, *Heb.* 13. 20. *The Primate*, or he that hath the primacy. *The Arche*, *Coloss.* 1. 18.

οἰκανή, which is given to magistracy, *Tit.* 3. 1. *δόξα*.
κύριος, *κυριότης*, *ὑψηλότης*, *Luk.* 22. 25. 26.
κυριοτέττες, *κατακυριώτες*, *1 Cor.* 8. 6. *1 Pet.* 5. 3.
ἡγεμόν, *Mat.* 18. 1. 2. the greatest.

οὐλοκροτεύων, 3 *Job.* 9.
οἰκιπερχόντες, *1 Tim.* 2. 2.
 That is, the titles of *principality*, & *Arche*, of *Dignities*, of *Lord*, *Dominion*, *Lordly*, *Benefactors-gracious*, *Great*, *Supreme*, which are all titles denoting *Magistracy* in the *Scriptures*, they are not given, but forbidden to the *ministry*. And not only the *Law* of primacy and preeminence,

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11

preeminence, but *primacy* it selfe, and preeminence in any thing is forbidden to any officer in the Church, and appropriated to Christ alone. *Aurois n' repart; d'yez, ce n'a
m' aurois approuer,* Coloss. 1. 18.

Eleventhly, To forgive sinnes judicially, and to loose the bands of all diseases and afflictions, Mat. 9. 6.

Therefore he hath set up no such office or order in his Church as is a *Confessor*: nor annexed this power to any order, or office, that men should bee bound to come to confession to them, or to come to shifte.

Twelfthly, To institute or constitute; and to give these four things following;

1 The worship of God under the New Testament, and every part of worship, Mat. 28. 19. 20. 1 Cor. 11. 23. I have received of the Lord, that which I deliver, &c.

2 A ministry, Mat. 28. 18. 19. Ephes. 4. 8. 9. 10.

3 The divers administrations in the Church, 1 Cor. 12. 5. there are differences of administrations, but the same Lord.

4 The successe, Mat. 28. 20. Lo I am with you to the end of the world.

Therefore, first, there ought to be no worship of mans institution, for that is will-worship, Coloss. 2. 20. 21.

22. 23.

2 There ought to bee no Church-officers, or kinds of Ministers, but what Christ hath instituted, and ordained, Heb. 5. 5. *nomin taketh this honour to himselfe, but be that is called of God;* for none can give the gift but Christ, who received all that were to bee given, Psal. 68. 18. with Ephes. 4. 8. None can set up the order or office but Christ, who is the head, from whom the whole body is fitly joyned together and compacted, Ephes. 4. 15. 16. others can but pitch an office to the body. None can give the blessing but Christ.

3 There ought to be no Church-government, but what Christ hath ordained, 1 Cor. 12. 4. 5. 6. 11. 12. 27. 28. there are diversities of gifts, of administrations, of operations;

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rations ; but all these worketh that one spirit, for as the body is one and hath many members ; so also is Christ. Now ye are the body of Christ, and members in particular, and God hath set some in the Church, first Apostles, &c. Gamaliel a Pharisee could say it must be of God, or else it of Men it will come to nought, *Act. 5.* 38. 39.

4 It is lawfull to take away an office or power warranted by divine institution, or to misplace the same ; that is, to place it where Christ hath not placed it.

5 We cannot looke up to Christ with faith for successe, and for a blessing in an office, worship or government that he hath not set up.

6.

These Church-offices or officers, or administrations hath Christ in Scripture expressly appointed and instituted : for he hath given their distinct gifts, their names, and their imployments.

First, Extraordinary offices, or administrations, viz: whose gifts, callings and imployments were extraordinary for the first plantation of the Gospele, and the setting of Christian Churches, and they are these ;

1 Apostle-ship, *Rom. 1. 5.*

2 Prophet-ship, which was of two sorts. First foretelling things to come : and these were both of men, as *Agabus*, &c. *Act. 21. 10. 11.* and of women, as the four daughters of *Philip* the Evangelist, virgins, *Act. 21. 8. 9.* Secondly, Telling forth the written word, by immediate assistance of the Holy Ghost, dexterously unfolding and applying Scripture, *1 Cor. 14. 31. 29. 30. 31. 32. 36. 37. 22. 1 Cor. 13. 2.* Of both these sorts of Prophetique gifts were they furnished, whose names wee read, in *Act. 13. 1.* whom *Luke* calls, *Prophets and Teachers.*

Here note that no woman hath power to speake (as a Teacher, what ever her gift bee) in the publicke Congregation.

3 Evangelist-ship, which was employed in writing the Evangelicall History, or else called by the Apostles

to

to preach the Gospel together with them as their companions in travailles, and co-workers for the ordering, instructing, and settling the Churches, *1 Tim. 1. 3. Tit. 1. 5.* such were *Barnabas, Silas, Timothy, and Titus, Philip* and others. Three places prove that this was a distinct degree of ministry in the Church, *Ephes. 4. 11. Alt. 21. 8. 2 Tim. 4. 5. Col. 3. 12.*

There were also in the Primitive-apostolical times three other extraordinary gifts, as
1 Miracles.
2 Gifts of healing.
3 Diversities of tongues, interpretation of tongues,
1 Cor. 12, 28.

But the three first were offices in the Presbytery, and were distinct gifts received and given of Christ ascended for the works of the ministry for the gathering of the Saints, and the edifying of the body of Christ, &c. Ephes. 4. 8. 11. with Pjal. 68. 18.

There were also Brethren and Sisters in Christ, that is, godly men and women indued with a rich measure of knowledge, zeale, and piety, that laboured much in the Lord to instruct, catechise, and teach privately in the Doctrine of Christ: who though they were not of the former offices and callings, yet the Apostles gave them the name of *Helpers in Christ*, Rom. 16. 3. 9. 18, 26.

Secondly, *Ordinary*: whence gifts, callings, and im-
ployments were for the propagation of the Gospel in
particular Congregations, and for their good, to the
end of the world. And they are these; *1 Cor. 4. 12. 1 Cor. 12. 28.*
First, *Pastors and Teachers*. Gifts given by Christ unto
men, for the gathering of the Saints, for the worke
of the ministry, for the edifying of the body, *Ephes. 4.
10. 11.* whose calling is, first, to labour in the word
and doctrine, to Teach, or to Prophecy, that is, to open
and apply the Scripture to edification, exhortation and
comfort, and to convince gain-sayers, *1 Tim. 5. 17. 1 Peter 5. 12.*

Διδασκαλία.
Παραγγελία.

Tit. 1. 9. 2 Tim. 4. 2. &c 3. 16. 17. And to this end to attend to Reading, and Meditation, to take heed to themselves; and unto the Doctrine of the word, holding fast a forme of sound doctrine, or Patterne of abolute words, to be wholly taken up herein, and to continue so doing, to stirre up the gift that is in them; that their profitting may appeare unto all: thus doing they shall save themselves & them that heare them, *i Tim. 4. 13. 14. 15. 16. 2 Tim. 1. 13.* Their calling is also, secondly, to administer the Sacraments according to Christ's institution, and to powre out prayers as the mouth of the Congregation. And lastly, it is their place, thirdly, to rule together with the other Church-officers, and with the bridle of Ecclesiastical Discipline to keepe Churhians within the boundes of obedience to God required in his word.

Duxorū,
ubi
o magistrū.

Secondly, *Elders that Rule;* in *Tim. 5. 17.* A speciaall gift distinct, and differing according to the grace given to the members of the body of Christ, *Rom. 12. 5. 6. 8.* called, *Governments;* which is a distinct office, set in the Church by God, *1 Cor. 4. 2. 28.* To that place in *Tim. 5. 17.* some except saying, that the word *menētē*, they that labour, doth difference those that labour diligently from those that labour negligently. This is weake: for first, the word *menētē*, that *labour*, is not referred to the word, *Elders*, that goeth before, but to the following words, *in the word and doctrine*: and all of them together make a member of the sentence contra-distinct to the first member, *the Elders that rule well.* ονομάζεται τοποθετηται, οι νομωται ιν αρχα κα παρακληται. Secondly, by their interpretation it would follow that the more negligent labourers in the word and doctrine were worthy of double honour: than which thing nothing is more absurd, nor farther off from the Apostles meaning, who requires and with deepest adjurations charges all Bishops and Pastors with the utmost watchfullnesse and industry, *i Tim. 3. 3.* and *2 Tim. 4. 1. 2.* Whence wee conclude, that the more negligent Pastors are

are worthy of double censure, not of double honour,

Thirdly, *Deacons*: whose office and first institution
wee read in *Act. 6*, their employment, *Roma. 12. 8.* be
that giveth with simplicity, *be that serveth many with sober
fulnessse*, they are called *Helpers*, *1 Cor. 12. 28.* there were
of this office both men and women also, *1 Tim. 5. 9.*

Here note some things concerning the words, and
some things concerning the things themselves: for the
words, note that the words, *1 Tim. 5. 9.* *1 Pet. 5. 1.* and *3*
Elders, is common to the Apostles, *2 Iob. 1.* and *3*
Iob. 1. 1. *Pet. 5. 1.* to Pastors, *1 Pet. 5. 1. 2. 4.* and to Gover
nours, *1 Tim. 5. 17.*

2 Bishops and Episcopacy to Apostles, *Act. 1. 20.* his
Episcopacy let another take, speaking of *Iudas*, to Pastors, *Act.*
20. 17. 28. and it seemes to many great Divines, to go
vernours or ruling Elders also in two places, *Act. 20. 17. 28.* *Phil. 1. 1.*

3 Deacon also is promiscuously used; to Apostles,
Rom. 11. 13. to Pastors, *Coloss. 4. 7. 17.* and *1. 7.* *Ephes.*
6. 21. to Evangelists, *2 Tim. 4. 5.* to Magistrates, *Rom.*
13. 4. to Christ, *Rom. 15. 8.*

Againe note that the words

1 Bishops and Episcopacy are appropriated to Pa
stors, *1 Tim. 3. 1. 2.* *Tit. 1. 5. 7. 9.*

2 Deacon is appropriated to that office, *1 Tim. 3. 8.*

3 Bishops and Deacons are distinct, *Phil. 1. 1.* but
doe not find the Deacon ever called an Elder.

Thus for the words: and for the things themselves
or the officers, it is to be noted, *1 Tim. 3. 12.*
That not only the Elders, but even the Deacons
were so consecrated to the Church of God, that their
holinessse in life, fidelity in their function, and industry
in the doctrine of faith, both to grow in the knowledge
thereof, and instruct others therein being fatious
they were promoted to the pastoral office, *1 Tim. 3. 12.*
Hence it is evident that in their choice they had respect
not only to the purity of their consciences, but also to
their

their solid knowledge, and their diligence, as the matter required, to exhort and admonish others.

2. That not only the Pastors, but also the Elders and Deacons function, was perpetuall, during life, and not continuing only for a yeare or two.

Conclus: 1.

The Scripture affords not the names of Universall Bishop, Patriarch, Cardinall, Arch-bishop, Deanes, Arch-deacons, Abbots, Canons, Prebends, Monkes, and the rest of the Hierarchy: nor yet the office, nor the inequality of the dignity or authority, nor their distinction & Ordinations, nor lastly, their employment in the Church of Christ.

2.

The names and offices of Ostiaries, Exorcists, Readers, Curats, Acolythis, Subdeacons, Singing-men, or Choristers; and the like doe nowhere appeare in the Apostolicall descriptions of Ecclesiasticall Ministers.

Against bringing in, or introducing any devised office into the Church of Christ, consider these Axiomes, infallible verities.

1. All things (in the New Testament) are of God in Christ, 2 Cor. 5. 19.

Conclus:

Therefore whatever is not of God, it is of humaine presumption, and of the Devil: for the phrase to be of God, is opposed thus in the New Testament to that which is of the world, and of the Devil, Job. 7. 17, and 8. 42. 47. Mat. 16. 23. 1. Job. 4. 1. 2. 3. 4. 5. 6. 3. Joh. 11.

2. The gifts of the Spirit different, doe (intrinsically) constitute the distinct orders and callings in the Church, Rom. 12. 4. 5. 6. 1 Cor. 12. Ephes. 4. 8. iii. He gavd gifts, some Apostles, &c.

Conclus:

Therefore whoever pleades for a distinct calling, and a power of administrations in the Churches of Christ, let him shew his distinct gift, and we will ratify and gratify the worke of God. If Bishops among us, and Presbyters or Priests, as wee call them, be distinct, in ordination and office, as wee make, let the Bishops shewe

shewe their distinct gifts ; their distinct ordination can never be shewed out of the Scripture. Shew your unction from the holy One, and we will receive you ; if not, wee must reject you as of the world, not of the Father, as of Anti-christ, not of Christ.

3 Christ ascended to fill all things, which he did and doth by giving gifts to men, for imployment in the Church, *Ephes. 4. 10. 11.*

Therefore either Christ is faulty, and misseth of his end for which he is ascended, or else there is no roome or place for other callings Ecclesiastical than he hath made ; which is the true reason, why, as wee see by experience, these devised offices and officers, where they come, doe justle Chrits owne offices, officers, and his institutions out of place. They want roome, and they cannot have it, but by thrusting out others.

4 That Christ might give gifts to men, he must first receive them of the Father for men ; and that he ascended to receive them, what is it, but that he descended first, and so was the eternall sonne of God incarnate for our sakes, *Psal. 68. 18.* with *Ephes. 4. 8. 9. 10.*

Therefore no creature, Man or Angell, (yea the son of God doth it but as he is in office of Mediator) can give any gift fitting for a Church-office unto any man, nor without presumption and sacrilege take the power to institute an order of ministry. Let them first ascend and descend, and then prove their ascension to the right hand of the Father by the powring out of the Holy Ghost,

5 The gifts that Christ giveth, are of power, through his blessing, to subdue, and make anew even the *Rebelions*, * that they may live peaceably and holly in the Church of Christ, meekly taking up his yoke and obeying his Empire, and that the Lord Christ by his spirit may dwell in and among them, *Psal. 68. 18.*

Therefore that Christs office in the Church, be introduced, is the ready meanes to settle peace and godlineſſe,

* מְרֻמָּה
ut abbas, qui nulla disci-
plinaregi vo-
lun.

Conclus.

linesse, to prevent rebellions, factions, and schismes; but others rather make and increase rebels, seditious, and schismatiques.

6 Christ giveth no one new gift for kinde in any age of the Church downward, but the very same which he gave to the first Primitive Church recorded in the Scripture of the New Testament; those onely he giveth, though not all those.

7 Antichristianisme is not onely *Apostasy* in a body and head, and *Lyes* or *Heresies* combined and compacted to the making up of a *Man of sinne*: but also *Selue-exaltation* over all dignities, and *Selue-preemience* in the Church and under Church-titles, 2 Thes. 2. 3. 4. 7. This *Mystery of iniquity* wrought in the Apostle Pauls time, and *Anti-christ* in his forerunners was come in the Apostle Johns time, 1 Joh. 2. 18. and the last time which is the time of the great Anti-christs comming and Reigne, began in the latter dayes of the Apostles, they yet living 1 Joh. 2. 18.

Conclus:

Therefore it is no sufficient proove of the Apostolicall nature, or Rise of any tradition, custome, or office, to derive it from the Apostles times, unlesse you can prove it founded in the writings of the New Testament, and free it from Apostasy and Lyes, and from selue-exaltation, and selue-preemience: but being found of this nature, the *Antiquity* thereof proveth it *Antichristian*.

This Church-government, and these Church-societies hath Christ instituted and left to his Church upon record in the Scriptures of the New Testament;

First, Standing and permanent, of two sorts:

1 *Congregationall*: which is a Church-society of such a number of beleevers or professors as can assemble together in one place to use Christs ordinances to their edification. This society consist of officers, and brethern, or members. And their assembling together is either *popular*, when they all come together for the worship

worship of God in publicke, either on the Lord's day, or at other times: or else Eccllesiastical, I meane, a session of Church-officers (at which also any or all of the members may bee present,) yet herein it differeth from the popular assembly, because it is instituted for the Government of the congregation. For the popular assembly, see 1 Cor. 11. 17. 18. 20. 22. You come together not for the better, but for the worse.—Wherfore ye come together into one place.—Despise ye the Church of God? Heb. 10. 25, not forsaking the assembling of our selves sightly as the manner of some is: for the Eccllesiastall, see 1 Cor. 15. Mat. 18. 20. for where two or three (speaking of the Church binning and loosing a member thereof, v. 18.) be gathered together in my name, there am I in the midst of them. This kind of Confession, or Session, is first in nature and origines, but last and meanest or lowest in dignity and authority.

2 Presbyteriall: which is a Church-society of the Pastors, Teachers, and Elders of some limited place (though containing many congregations) representing those congregations or Churches, who ought to gather together in Christ's name in one place to deale about the affaires of the Church to the right Government and edification thereof, and the glory of God.

This is called the Presbytery, 1 Tim. 4. 14. * like the Synedrium, or Consultory among the Jews. And as some thinkke, Christ instituted it in the roome thereof, *vnde id est*, 18. 17. when he sayd, Tell it unto the Church.

1 That this Presbytery consisteth of the Pastors and Elders of many congregations, appeareth in Act. 15. 2. Paul and Barnabas should goe up to Jerusalem unto the Apostles and Elders, v. 6. they were received of the Church and of the Apostles and Elders, Act. 21. 18. Paul 14. yeares after his conversion found resident at Jerusalem, James, and Peter, and John, Gal. 2. 1. 9. now they had not so many Apostles and Elders for one congregation. Besides, the multitudes of beleevers in Jerusalem be-

* The word Presbytery, is thrice used in the New Testament and signifieth the company of Presbyters or Elders, Luke 22. 66. Acts 22. 4. 1 Tim. 4. 13.

ing 3120, in *Act. 4.* and increasing dayly long before Saint Paul's conversion, could not assemble in one place to heare the word, receive the Sacramenta, and so pray, and so to use the ordinances of Christ.

2 The Presbytery consists properly of Pastors and Elders, extraordinary gifts now being ceased.

3 It hath no one Bishop or Pastor, during life, that hath a name distinct from, or power above the rest: but onely (perhaps) * one chosen by the whole to bee moderator, or to sit in the chaire for the present meeting, which yet is not a thing appointed in the word, because the light of nature leades unto it.

4 This Government or externall administration of the Church is neither Democraticall, nor Aristocratical, nor Monarchical, but if Dominion be laid aside, and Ministerie placed in th^e roomes, it answereth most to an Aristocracy. It is very suitable to our Sessions of Justices of Peace, or the Session of the House of Commons in Parliament: and therefore may be very suitable to our Civill State, onto any Civill Government on earth.

5 The Circuits for this Presbyteriall Government, and their divisions together with the times, and orders of their meetings for mutuall support and ayde in any kinde (provided they bee so cast that they may conveniently meet together in one, which is the thing the scripture requires) are all of Christian prudence (as it is for the circuite of Congregations or Parishes, and the times of their meetings for Government) guided by the generall rules of Scripture.

Thus of Societies and Government standing and permanent.

Secondly, *Ocasionall and Incident:* as *Synods* or *Councils*, consisting of Church-officers and Brethren selected by the severall Congregations. Wee have a most exact patteine in *Act. 15.* yet the names of *Synod* and *Council* are not in Scripture. Hitherto of Church-officers and Church-government,

ment, and also of the 12. particularity of power spiritual, which Christ hath reserved in his owne hands.

Christ hath kept in his owne power

Thirteenthly, The power to avenge to destruction. (for to take vengeance by spirituall weapons to distinction he hath committed the power to Ministers.)² Cm. 10. 3. 4. He himselfe will be avenged of men.

1 For the contempt of the Gospele, Revel. 6. 4. 8.

2 For the abuse of Ecclesiastical offices and authority, which vengeance he will execute.

By taking away the Kingdome of God, and transplanting it, Mat. 21. 43.

By raising armies, and sending them forth to destroy the murderers of his Ministers, Mat. 22. 7.

3 For formality, not receiving the love of the truth, Revel. 13. 5. 7. 15. with 2 Thes. 2. 10. and for turning christianity into Imagery, & living in notorious wickedness under the colour and cloak of the profession thereof: these things caused Christ to send and arm with power both the swarmes of Romish hypocrites, and the Euphratean Turkish tyranny, Revel. 9. 3. 10. 19.

Fourteenthly, The power of Plagues for the ruine of Anti-christ, and the whole Anti-christian State throughout the Christian world, Revel. 16. 9. and 18. 1.

These 14. are the Branches of that power which Christ hath kept to himselfe.

Christ hath in some sort passed over a power to others for the good of his Church.

*Helvetica con-
fessio: Art. 18.*

I say, in some sort, for there is a twofold power, first, of mere and absolute authority, which we may call also the power of right, potestas juris: this is alwaies and in all things, his alone: he doth all in the Church, as the Lord of the house, Heb. 3. 6: he only in this sense hath the key of David, openeth and no man shutteth, and shutteth and no man openeth, Revel. 3. 7. Esai. 9. 22: secondly of ministry, or office, potestas officii: which is a power delegated by him that hath and useth plenarie power. They who have

this trust should doe nothing but according to their Commission, nothing out of plenary power.

2. The power passed over to others, is either, first, Committed to them, or secondly, Permitted not without a holy and mighty ordering and ruling band; in, and over the same.

There is for the good of the Church a power committed by Christ to Angels and to men.

To Angels: a general commission, as wee read, *Psal. 91. 11.* and *Heb. 1. 14;* and particular commissions given, as *Revel. 14. 18;* another Angel came out from the Altar, which had power over fire.

To Men: this is most insisted upon in Scripture, and this power was committed to them.

First, for the first plantation of the Gospell, as

1. Power Apostolical.
2. Power of Prophets.
3. Power of Evangelists.
4. Power of Believers.

Secondly, for the propagation of it in the Churches afterwards for ever, both the power of officers, and the power of Church societies before mentioned: for Christ sets up no office, institutes no order, sends none without some power, yea, and that power through him mighty and efficacious for the accomplishing of his worke.

Apostolical power, was the greatest that ever was in the Church, even as their calling, and gifts were the highest and choicest by farre. First, *Apostles, 1. Cor. 12. 28.*

For their power was

1. Power in Christ's roome to order his kingdome.
2. my Father hath sent me, unto so send I you, *Joh. 20. 21.* words properly applicable to the Apostles, of this see, *Luk. 22. 29. Mat. 19. 28.* Ye shall sit upon twelve thrones, judging the twelve Tribes of Israel.

So that what ever orders, or institutions, rules or directions the Apostles have left us in the writings of the

*Apostolica
Ecclesia.*

Conclus:

the New Testament, they are all of the like authority as if Christ himselfe had delivered them to us wth his owne blessed mouth, 1 Tbel. 4. 8. he that despiseth despiseth not man, but God, who hath also given unto us his own spirit.

2 Power to minister to us *Doctrine infallible*, as the standard, as the word of God Originally, and in some sort to say, * *I Paul say unto you, Gal. 1. 2.* so that they having given it to the Church for the Canon and Rules ^{Auctoritatem} ~~Authoritatis~~ ^{Authoritatis} no Angelicall, no Apostolical, no Imperiall power may alter, pervert it, or teach otherwise but under the dreadfull curse of the Almighty. Set against such are spoken mere flames, Gal. 1. 8. *Though we or an Angell from Heaven preach any other Gospell, than that which we have preached to you, let him be accursed,* 1 Cor. 4. 15. 16. &c.

3 Power to give the Holy Ghost in extraordinary gifts, by imposition of hands, Act. 8. 17, and 19. 1. 2. 6.

4 Power to smite with strange punishments corporall: as Peter stroke Ananias and Sapphira dead with no other then his words alone, Act. 5. 5. 10. Paul stroke Elymas the Sorcerer with blindness, Act. 13. 11. & 14. 9.

5 Power to abrogate the old Law, that is, the Law morall, as a Covenant, the Law ceremonall, and judicciall, and the whole ministry of the Old Testament, and to promulgate the 'Law of Faith', Mark 10. 13. Matth. 28. 18. 19. 20.

6 Power of Oecumenical pastors, the whole world, as it were, their Parish, all Churches or Congregations, their See; *The care of all the Churches lay continually upon them,* 2 Cor. 11. 28. and therefore they had power to take to them assistants in their works, as they also did, and they were not only in regard of order, but in order, degree and power superior to all other ministers.

Yet note, That all this power was given to edification, not

to destruction, 2 Cor. 13. 10. They were the Churches, and the Churchmen Christ, and Christ is God; 1 Cor. 3. 1. 22. 23. they were no^t Lords of the Faith, they had no domination over the faith of the people, but were helpers of their joy, 2 Cor. 1. 24.

All this power was peculiar to them as Apostles, not as Pastors and Elders with other Elders, and therefore lived, and died with them, even as their gifts and their work ceased, and the ground of their calling or office.

All this power was equal to them all: they had parity of Ecclesiastical power and dignity: through the grace of God and the gifts of the Holy Ghost did excell in the abundant labours of some above others, Job. 20. 21. 22. 23. 1 Cor. 12. 28. and 1 Cor. 14. 28.

The power of Prophets, was proper to the gifts, in the Churches for the good thereof, 1 Cor. 14. 28. 29. Acts 15. 32, and the Society of Prophets had a power to judge and discern of the Doctrine and Spirits of the Prophets, 1 Cor. 14. 29. 32. Let the Prophets speak two or three, and let the other judge; and the spirits of the Prophets are subject to the Prophets.

The peculiar power of Evangelists was, to see to many Churches, even whole Provinces (as the Apostles were pleased to employ them, and saw convenient) in the Apostles room, and stead, as Co-workers with them, and as it were secondary Apostles, Apostolical men: either accompanying them in their travails, or residing for a time in some certaine place, even till the Apostles called them thence.

And in these places they had

A power to ordaine Ministers or Bishops in every City or Towne, Tit. 1. 5. For this cause left I thee in Crete, that thou shouldest ordaine Elders in every City as I had appointed thee, for a Bishop must be blameless. Not that a place might not have more then one Minister, but because no body of a people can be safe without a Pastor;

he

hee was to place fit persons, and enow in every City. Neither yet that he should ordaine alone without the consent of the people, and thrust on them whom he pleased, which thing the Apostles themselves never did: but that he should as the Apostles other selfe, looke to and be chiefe in these ordinations. Nor need he say, where shall I find fit men enow for every City? Christ is in Heaven to give them, he was but to try and find them out.

2 A power to Water the Churches planted, and to be perfecting the worke, the Apostles began in planting them by their laborious preaching and teaching the Gospell to them. *Paul plantet;* and *Apollo wateret;* 2 Cor. 3. 6.

3 A power to commit the Doctrine of the Apostles to faithfull men, that might bee fit to teach others; 2 Tim. 2. 2.

4 A power to charge and warne the teachers and Pastors about their Doctrine, 1 Tim. 1. 3. 4. 18. *As I besought thee to abide still at Ephesus, when I went into Macedonia, that thou mightest charge some that they teach no other Doctrine. This charge I commit unto thee, sonne Timothy,* according to the Prophesies which went before on thee, that thou by them mightest warre a good warfare. Timothy, therefore was not one of the ordinary Pastors, (*unus e vnguo*) but next to the Apostle, who oftentimes when Paul was absent, did sustaine his person.

5 A power to set in order the Churches, and settle Church-affaires in the things that remained, and were left undone by the Apostles through shorthesse of time. Tit. 1. 5. For this cause left I thee in Crete, that thou shouldest set in order the things that are wanting, *rectificare in disorderis; ut reformatio ne ac correptione mea, que desunt, addas.* These are the distinct branches of the peculiar power of Evangelists.

This is a rule: that where the Scripture hath made

the callings & power of his Ministers distinct and peculiar, there they may not be confounded arbitrarilie, upon the pleasure of any : unless we would build Babel and not Zion, 1 Cor. 12. 29. Are all Apostles? are all Prophets? are all Teachers, &c. &c. so it is in all the three Offices.

12.

In all these three Offices there was a power in common (retaining still their distinct degrees wch. in) and bee of the Church-session, the Preslstry and the Synod. Therefore the name of Elders was used in common to the Apostles and other Ministers. And the Apostle Peter writing to the Presbyters or Ministers calleth himselfe & our co-workers, a Co-elder. They were of Presberty, 1 Pet. 5. 1. the history stoweth it plainly, in Acts 1. 15. and 15. 6. 23. and 13. 1. 2. 3.

13.

To Believers usually was given a power of working Miracles, and over unclean spirits (though it were more eminently in the 72 Disciples, and most eminently in the Apostles, called therefore, the signes of an Apostle, 2 Cor. 12. 12. that the Gospele preached by them might be abundantly confirmed, and it might ranke, and the Gentiles be made obedient, Rom. 15. 18. 19.) Mat. 10. 7. Marke 6. 7. and 16. 17. 18. And these signes shall follow them that beleive. In my name they shall cast out Devils; they shall speake with new tongues, &c.

This power was committed to men for the first plantation of the Gospele. For the Churches for ever Christ hath given a power to ordinary offices, and Church-societies: of this as followeth.

14.

Christ hath committed to his Churches for ever, The keys of the kingdom of Heaven, which is a power given of the Lord, to edification, not to destruction, 2 Cor. 10. 8. And these keys are either the key of knowledge (as wee may call it out of Luke 11. 52.) or the key of Discipline. The key of knowledge is committed to the Ministers, Mat. 16. 19. The key of Discipline to the whole Church, Mat. 18. 17. 18. 19. 20. Tell the Church.

Conclus: 1.

Both keys must be used onely according to the rule of the

the word, not according to any other Law or Canon upon what pretence soever; for the power is wholly Ministeriall, of Servants and Stewards, in whom this is the chief requisite, even faithfullesse, 1 Cor. 4. 1. 2. No use is there at all of the Popes Canons, or any others. It is required in Stewards that a man be sound faithfully in his word. Therefore it is also evident, that the Ministers have a peculiar power, which none other may meddle withal. This is first to be delivered.

2.

ANSWER

The Ministers, *Priests or Bishops* have a peculiar power committed to them from Christ, in which power they are the Successors of the Apostles and Apostolical men, that is of Prophets and Evangelist; and this by,

1 A power to preach the word, in season, and out of season, publickly and from house to house, to the conversion of sinnes and edification of the Church; and to convince gainsayers, Tit. 1. 9. A Bishop must hold fast the faishfull word, that he may be able by sound doctrine both to exhort, and to convince the gainsayers, 2 Tim. 3. 16. and 4. 1. 2. All Scripture is profitable for doctrine that the man of God, (that is, the Minister) may be perfect; I charge therefore before God, and Preach the word, bee instant in season, out of season. Actr. 20. 20. I kept backe nothing, but have taught you Publickly and from house to house. Acts 26. 16, 17, 18. I make thee a Minister—to whom now I send thee, to open their eyes, to turne them from darkness to light, and from the power of Satan unto God.

A power to administer the Sacraments: and to be the mouth of the congregations in prayer, Mat. 28. 18, 19. Give teache all Nations, and Baptize them, 1 Cor. 14. 15. 16. I will pray with understanding, (that is, so that my understanding may be fruitfull to the hearers, v. 14.) else how shall he that occupieth the roome of the unlearned, say, Amen? And this power is to be exercised in a certaine particular Congregation or Church, 1 Pet. 5. 2. Feed the flocke of God which is among you, taking the oversight thereof,

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ibereof, *Act. 20. 28.* Take heed to all the flocke, over the which the Holy Ghost hath made you overseers, to feed the Church of God, *Act. 14. 23.* They ordained them Elders in every Church, *Heb. 13. 17.* Obey them that have the rule over you: for they watch for your Soules, *1 Thes. 5. 13.* Know them which labour among you, and are over you in the Lord, and admonishe you; which things cannot be done by one Minister to more than one Congregation.

Concluſion:

A Minister may preach in any other congregation, with the leave of his fellow-minister, and doe all the good he can wheresoever God giveth the opportunity and occasion, for all the particular Churches are but one Church of Christ, and one body: and all things are theirs, whether *Paul*, or *Apoloſy*, or *Cephas*, *Cor. 3. 21. 22.* but *Pluralities and non-residenty God hateth.*

* *Jer. 15.19.*

2 The power of binding and loosing by preaching, that is, of Applying (with severing the precious from the vile, as Gods owne mouth, * in the publique minittry) the promises and threatniments of Gods word, pronouncing them, and denouncing them in Christ's name, and by his authority according to the Gospell. And this power of an Interpreter, to shew to man his uprightnesse, and to deliver a man from Hell: and on the contrary to shew to a man his wickednesse, and to binde him, and while he will so continue, to barre him Heaven, the Minister may and ought to exercise in private, to any of his flocke severally, according to the truth of the Gospell, *Matt. 16. 19.* I give thee the keyes of the kingdome of Heavens; and whatsoever thou shalt binde, &c. *Job. 20. 23.* Whosefover finnes yee remit, they are remitted unto them: and whosefover finnes yee retaine, they are retained. *Job. 33. 19. 23.* He is chafstened with paine upon his bed, — Now if there be a messenger with him, an Interpreter, one among a thousand to shew unto man his uprightnesse, then be is gracious unto him, and faith, deliver him from going downe to the Pit. These are spirituall weapons

pons of a spirituall warfare, taking vengeance on all disobedience, &c. 2 Cor. 10. 3.

3 A power to keep and present the truthes, ordinances, worship, and Commandements of Christ from corruptions, without spot: and from corrupters, trying them and not suffering them, and reducing the congregation, from any abuse crept in, to the pure institution of Christ, 1 Tim. 6. 13. 14. I charge thee in the sight of God, *that thou keep this commandement without spot, Mat. 28. 20. Teaching them to observe all things whatsoever I have commanded you, Revel. 2. 2. Thou canst not bear them which are evill, and thou hast tryed them which say they are Apostles and are not, &c. 1 Cor. 11. 23.*

4 A power to receive maintenance, 1 Cor. 9. 11. 12. 14. 18. Even so hath the Lord ordained, that they which preach the Gospell should live of the Gospell. If others be partakers of this power over you, (that is, to reap your carnall things) are not wee rather? 1 Tim. 5. 18. the Scripture saith, thou shalt not muzzle the Oxe that treadeth out the corne, and the Labourer is worthy of his reward, Gal. 6. 6. an honourable maintenance is due, 1 Tim. 5. 17. 18.

Therefore the maintenance of the Ministry is not a matter of Almes, but Wages and due debt.

Concluf: 1.

Those that set up a Temple, Altar, Sacrifice, and Priesthood, and will bee Priests to serve there, have no right to partake of this power, which is due to the Ministers that preach the Gospell, Heb. 13. 10. *Wee have an Altar whereof they have no right to eate, which serve the Tabernacle.* The same is true also of every Idolatrous, hereticall and uncleane teacher, Zech. 13. 2. 3. 4. 5. 6.

2.

5 The power actually to pronounce the sentence of excommunication and of absolution, and to receive the penitent, and in this sense to use the keyes of discipline: I give unto thee the keyes of the kingdome of Heaven, Mat. 16. 18. for his power it is to apply personally the

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Church censures, whose it is to apply the comforts or threats in the ministry of the word; and to give the seales of the covenant; the Sacraments.

This Spirituall power, to Prophecy, to kill their Enemies with devouring fire, to shut Heaven, that it raine not, to turne water into bloud, and to smite the earth with all Plagues as often as they will, is eminent in Christis two witnesses, that is, the number of faithfull Ministers during the time of 1260 dayes, the time of Antichrists raigne, untill the time that they are even about to finish their testimony, though all this while they Prophecy in Sackcloth, a miserable mourners outside, much differing from the scarlet-pampous-Antichristian array of the whore of Babylon, Revel. 11. 2. 3. 4. 5. 6. Read the place.

Thus of the appropriated and peculiar power of the Ministers: now because the power of Elders that Rule, and Deacons, so farre as those offices have in them any thing peculiar, is comprised in their name and description, I passe on to the power of the Church.

In the head of the description of the Church-power following, I lay downe this rule.

The power of the keyes of Discipline is given to the whole Church, but the execution, the exercise, and administration of that power is given to the representative Church, in the Church-sesson, and in the Presberty: which power they are to use in the name and with the consent of the Church. Nothing is to be undertaken by the private authority of one alone, nor by the Ministers alone. This will appear by the particulars following.

Christ hath committed power to every congregation;

1 Power to use all Christis ordinances of worship, as Preaching, Prayer, the Sacraments, and fellowship by due officers performed, Acts 2.42. They committed stedfastly in the

the Apostles doctrine, and fellowship, and in breaking of bread, and prayer.

2 Power to keep the Scriptures tabellionis instar, as a keeper and bearer of the publique tables of the two Testaments: to read and search them: to judge, not of them, but according to them, of others writings, and teachings; to approve the true and reject the false; (*i. Job. 4. 1. try the spiritus.*) to teach, exhort, comfort, and reprove one another mutually, *i. Thes. 5. 11. Col. 3. 16.* The severall families are to be governed by the Masters and Dames of the Families in the knowledge of the word, prayer, repeating of Sermons, singing of Psalmes, conference, reading, instruction, and the like, that they may bee as so many little Churches, *Prov. 31. 1. i. Pet. 3. 7. Mat. 3. 16. Rom. 16. 5.*

3 Power of Election, to look out, and choose Church-officers, as Deacons: the whole multitude chose Steven, &c. and set them before the Apostles; *Acts 6. 3. 5. 6.* And Elders, or Ministers, *Acts 14. 22.* when they (that is, Paul and Barnabas) had ordained them Elders in every Church, that is, with the suffrage of the people of those Churches respectively: for so the Greeke word signifieth, Χειροτονίας δὲ αὐτοῖς ἀπόστολος ταῖς εκκλησίαις.

4 Power to preserve the orders and ordinances truly Apostolidall, that is, such as are delivered in the writings of the New Testament; as *i. Cor. 11. 2.* the Epistle is written to the Church at Corinth, and *to all them in every place call on Christ:* and in *Chron. 11. 2.* they are prayased for that they kept the ordinances as he delivereid them. So in *Chron. 11. 16. 33. 34.* and *Chron. 14. 26. 27. 28. 29. 30. 34. 39. 4.* and *i. Cor. 16. 1. 2.* speciall rules are given to the Churches. The Apostle *Coloss. 2. 5.* saith, he joyed, and beheld their Order.

5 Power of Admonition according to Christ's rule, privately and more publiquely as the difference of faults and offenders requireth, *Mat. 18. 15. 16.* (not only of the

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the members, but even of the Ministers (*say to Archippus, take heed to the ministry, Coloss. 4. 17.*) *I Thes. 5. 14.* Wee exhort you brethren, warne them that are unruly:) and if admonition prevale not, then they ought to note that man, to *with-hold* their former familiar society, as the words are in *2 Thes. 3. 6. 10. 14.* and at last with much condoling of their obstinacy in wickednesse to proceed with prayer to excommunication: herein seeking the greatest *consent* and *weight* of authority that may be, even of the whole Presbytery. As the Apostle *Paul* sayd, *1 Cor. 5. 3. 4. 5.* *I have judged already that in the name of the Lord Jesus Christ, when ye are gathered together, and my spirit with the power of our Lord Jesus Christ to deliver such a one to Satan.* See here the Presbytery, even *Paul*, and all the chiefe of the Church at *Corinth*, which was a Society of many congregations in all probability as appeares by the multitude of factious among them siding to their multitudes of teachers *1 Cor. 1. 11. 12.* and by the multitude of false Apostles and false teachers that were amongst them in that Church, *2 Cor. 11. 13. 23.* and lastly the greatness and populousnesse of the City *Corinth*; however, it is cleare that the Presbytery was the greatest confession they could have, because the Apostle would have it done not without his presence and authority represented by this Epistle: and they had, besides their Pastors, many Prophets, who also were of this Presbytery, *1 Cor. 14. 29.* *Let the Prophets speake two or three, and let the other judge.* So *Mat. 18. 17.* Tell the Church, that is, the representative Church in a Presbytery, which was to bee in the roome of the *Sanhedrim*.

6 Power to Order the communication of spirituall helpe and comforts to the members of their owne Church (*1 Thes. 5. 27.* *I charge you by the Lord, that this Epistle bee read unto all the holy brethren.*) and to other Churches by commanding & conveighing theni, *Col. 4. 16.*

When

When this Epistle is read among you, cause that it be read also in the Church of the Laodiceans.

117. Power to assemble together both for the use of Christ's ordinances, and for the use of all the proceeding power, Mat. 18. 20, for where two or three be gathered together in my name, there am I in the midst of them.

17.

Every Presbytery hath power given of Christ to be exercised in the Church or Churches and congregations, whose representative body they are; the Pastors and teachers with the counsell of the Elders, and the consent of the whole Church, ordering and censuring those that are named brethren, for the impurities of doctrine and life, that is, leavening, polluting, and scandalous. The object of this power are the brethren & Cor. 5. 12. If any man be called a brother, and not only those of the flocke, but the Pastors themselves, Act. 20. 28. 30. 31, the Apostle speaking to the community or body of the Elders assembled, v. 37, requires them to take heed to themselves and to all the flocke, and because of themselves will teachers should arise; he requires that therefore they make and remember his example of above many paines in warning the Elders of that Church. The cause is either scandalous life, as 1 Cor. 5. 10. 2 Thess. 3. 1. or perverse Doctrine, as Tit. 1. 10. and hereticall practices of carnal lusts and second admixtion reject; Rom. 16. 17. & Timoth. 1. 2. Job. 10. both are leach, Mat. 19. 16. 32; and 1 Corin. 5. 6. Gal. 5. 9.

The power of the Presbytery lyeth,

11. In ordination of church officers chosen by the severall congregations; 1 Tim. 4. 14. the girding with the laying on of the bands of the Presbytery, Act. 13. 1. 2. 3. A famous Presbytery in the sacred story, Barnabas by name, Justus, Nicanor and Saul, ministering to the Lord, were commanded to separe Barabbas and Saul, which they did with laying their hands upon them. Election and ordination are distinct things; Act. 6. 3. 5. 6. Ordination belongs only to the Presbytery, and the imposition

sition of hands to the Pastors and Teachers in the Name of the Presbytery before the face of the congregation, 1 Tim. 5. 22. Before ordination there ought to be a triall o' t' the Pastor for life and doctrine; the Presbytery herein is a fit judge according to the Apostles Canon, 2 Tim. 2. 2. These things commit thou to faithful men, which may be fit to teach others also.

All this must be understood of a Church already constituted fully, but for Churches that are in constituting, the worke is to be done as the matter it selfe will give it, pro re nata; the like conceive in the rectifying of a Church ill-constituted or fearfully decayed.

They have the maine essentials of an outward call, who giving the probation and specimen of their ministeriall abilities, and sanctification, and speciaall desires with aptnesse to the worke of the ministry, are approved, and as it were voted by the godly, and the learned, and expert in the word; though there may be many complements desirable in a wel-constituted Church of Christ wanting, and many supplements corrupt and burdensome redundant in a corrupt Church-government.

2. In iudiciale cognition and censures in matters Ecclesiasticall, where they have power.

1. Of Admonition, Mat. 18. 17. Tit. 3. 10, & 1 Cor. 5.

2. Of Excommunication, 1 Cor. 5. Mat. 18.

Which hath two degrees,

First, Abstencion from the Lords Supper; grounded upon the practise in the Old Testament, when for legall impurities they were to abstaine from the sacrifices and the Paschall Lambe, Numb. 9. and 19. and 2 Chron. 30. and upon the Apostles precept, 1 Cor. 11. 28. that a man examining himselfe, and so eat, &c. which cryall though it be to be performed by every one privately, yet in publicke fests it sheweth that by the Church-governours the same ought to be done publicquely, besides the Scripture commands them to attend to the whole flocke, and

and to separate the cleane and uncleane, to take away scandals, and to judge them within their bounds above mentioned.

Secondly, Exclusion from the outward communion of the whole Church : Mat. 18. 17. this is called a delivering up to Satan, 1 Cor. 5. 5. 1 Tim. 1. 20. 1 Cor. 5. 6. 11. The purging out of old leaven. The excommunicate is cut off from all Ecclesiastical communion, and from that familiarity of conversation that ariseth from the force of Christian fraternity, but yet he is to be admonished as a brother, and afforded all offices of neighbourhood, and of naturall and civill relations commanded in the fifth Commandement.

18.

The power of Synods, being in matters merely Ecclesiastical, and those too such as are common to all the Churches whose representative body they are, is conversant about those matters which could not be dispatched in inferior Church-sessions & Presbyteries, as we see in Acts 15. 20 when Paul and Barnabas had no small dissension with teachers of false doctrine, they determined that Paul and Barnabas, &c. should goe up to Jerusalem.

Their power is,

1 To affirm the pure doctrine comprehended in the word against Heresies whether the doctrine respect faith, or worship, or life, Acts 15. 1. 5. 6.

2 To settle Ecclesiastical policy, according to the diverse circumstances of times, persons and places, against Schismatiques ; and for a remedy of evils that might disturbe the quiet state of the Church, as in Saint Pauls case, Acts 21. 18. and in the toleration of things indifferent out of the Law of Charity, Acts 15. 28. 29. 30. 31.

Thus truth and peace are preserved.

3 To judge persons according to the word, as their cause requireth, Acts 15. 24.

The rule and Judge in Synods is the Scripture, Mat. 2. 5. Acts 15. 14. Job. 5. 45. In a Synod, in its order and degree, is the Apex, and eminency of the Ecclesiastical power of the whole Church of God, as it is extreall:

yet no Synod can have the like authority to the Apostolicall Synods, for the members of those Synods being Apostles many of them, and many Apostolicall men, because of the immediate and perpetuall assistance of the Holy Ghost in their determinations they could not erre: and therefore their authority was simply and every way divine. Whereas others are so but in some certaine respect, and in no wise are they free from errors. They are of divine authority so farre forth as they are gathered together in Christis name, and doe deliberate and decree any thing according to the word of God in the Scripture, from which they borrow and receive whatever authority they have.

Concerning all this power committed to the Church, to her Pastors, and Societies, I further propose these rules and observations.

That by Church is sometimes meant a society of professors of Christ, parcelled into many congregations or assemblies, *Acts 8. 1. and 11. 22.* *The Church which was in Jerusalem, Acts 15. 4. of the Church and of the Apostles and Elders, Acts 2. 47.* This Church in Jerusalem was the first particular Church of Christ: the first that ever bare the name of a Church in Scripture, * and it was but one Church, wee never read, *the Churches in Jerusalem.* Now, before the dispersion of the members of this Church by that cruell persecution, of which wee read in *Acts 8.* the multitude was so great that it would needs make many congregations. In one Assembly in *Acts 1. 15.* were 120. To them, in *Acts 2. 41.* were added 3000. in one day. And to them the Lord added more dayly, v. 47. In chape 4. ¶ the number of them was about 5000, which the ancient Fathers and others doe conceive are to be reckoned by themselves, as a new accession to the former thousands. And the Greeke text in that place speaks of Men expressly (οἱ ἀνδρεῖς αἱ γυναικεῖς) distinguishing them from women. In *Acts 5. 14.* the Evangelist notes that *men* ministered both of men and

Acts 2. 47.

O λεγετούσις τῶν
ἀνδρῶν.

men * were added to the former thousands. In ch. 6. 1. the Disciples still multiplied. In they v. 7. yet increased & the number multiplied greatly*. And moreover (whis 780x-
nos) a great company of the Priests were obedient to the faith. What one assenibly could hold all these to heare ^{for to us}
one man preach, to communicate at one time (for they were all communicants) at the Lords Table? set aside the last great and happy increase instanced in in v. 7. of chap. 6. and the text in v. 2. is apparently cleare that the twelve Apostles were not able to distribute the Almes to the poore Saints, but they must leave the word in respect of the full discharge of the ministry thereof requisite and behoovefull unto ~~the~~ Church, and when they ordained Deacons, no lesse than seven men were designed to that worke for the service of that one Church. In *Actis* 12. 12, 17. when Peter was in Prison, the Church prayed for his deliverance incessantly: but this Church was in many Assemblies and Congregations; as in v. 12. one congregation in the bosome of Mary the mother of John Marke, a set place knowne among the Disciples, used for the publique and solemne meeting: yet in v. 17. James was not there, but with another congregation praying, therefore Peter said, *God, shew these things to James*: that as he joyned in the worke of prayer, so he might in the duty of praise. In the same v. 17. Saint Peter bids them to shew those things to the brethren also; upon which words reverend and judicious Calvin saith, understand by brethren, not men of any sort that were of the Church, but the Apostles and Elders. And in the same v. it is further said, that Peter departed and went into another place.

Of this Church of Jerusalem spake James and the Assembly of the Elders thereof * unto Paul in this manner, *I knowe, brother, how many ten thousands of Jews* ^{to the world} *there are which believe; besides, Gentiles in the same* ^{Churche;} *and Jews that were not thus weake, as those* ten thousands were, *who were all zealous of the Law.*



* *Acti. 21. 20.*

Of these ten thousands there were divers Pastors, for, besides *James*, there was a great company of Presbyters, who were assembled with *James*, to advise and perswade *Paul* to such a carriage amonst them as might winne the weake Disciples among the *Jewes* to a good opinion of him: this Assembly was the Presbytery of the Church of *Jerusalem*, which the Evangelist sturyeth in these words, *Paul went in with us unto James, and all the Elders or Presbyters, were there assembled.*

Act 21. 18.

The first persecutions began in Cities; as in *Jerusalem*, *Act* 8. 1. &c. and in *Damascus*, *Act* 9. 2. & 26. 11. there *Saul* first preached. *Act* 9. 20. **Act* 16. 12. 17. v. 1. 19. *Act* 18. 16. 1. 19.

The first foundation of Churches was in Cities populous & of great concourse; for in them the Gospell was first preached, *Act* 8. 1. 5. and thither the Apostles went as the places most convenient to propagate the word of the Gospell, *Act* 8. 14. *Philip passing through, preac'ed in all the Cities till he came to Cæsarea. Paul preacheth* **in Philippi, in Thessalonica, in Berea, in Athent, in Corinth, in Ephesus, great Cities. And in chap. 19. 10. he continued in Ephetus by the space of two years, so that all they which dwell in Asia, heard the word of the Lord Jesus, both Jewes and Greeks. From Cities was the Gospell carried to the regions round about. And all the Churches that wee read of in the New Testament are distinguished by the Cities: the Villages and places adjacent with the Christians in them and their congregations not mentioned as Particular Churches, but reckoned with their Cities as making up particular Churches. The first Church of the *Gentiles* was at *Antioch*, where when the Gospell was preached to the *Gentiles* as well as the *Jewes*, there was such a miraculous increase of the multitude of Converts, that the Disciples were first called *Christians* in *Antioch*. The Church of the *Thessalonians*, in which were many Pastors: the Church at *Coloſſe*: the Church at *Corinth*: the Church at *Philippi*, where were many Bishops: the 7 Churches of *Asia*, distinguished by Cities, of which the Church of *Ephesus* had many Elders or Bishops to feed the Church there. These Churches were every of them a Society of Congregations or Assemblies*

Act 11. 20. 24.
26.
² *Thes.* 5. 12.
Phil. 1. 1.
Revel. 2 & 3.
Act 20. 17. 28.

Assemblies under many Pastors. *The Churches in Judea*: or in *Galatia*, are to be understood according to the use of this phrase in the New Testament; what the meaning of this phrase is, appears by *the Churches in Asia*. These Churches in *Asia*, (as the Church of *Ephesus*, the Church in *Pergamus*, &c.) were every one a Church, not constituted of a particular Assembly or Congregation under a Pastor, but of a Society of all Christians (were they never so many, constituting never so many Congregations or Assemblies that had every one their particular Pastor) I say of all the Christians that lived in such a City, and in the Villages in the region round about. The Churches being thus reckoned by the Cities in a Country, in a Kingdome, in a Province, or in an Iland; so many Cities, so many Churches. Thus it was in *Asia*. And if wee hold the same reason of the phrase, thus it was in *Judea*: the Churches in *Iudea* were not reckoned by the Assemblies or Congregations, and their Pastors, but by the Societies of Christians in Cities and Villages adjacent: so the Churches ^{Tit. 1. 5.} in the Ile of *Crete* were distinguished by Cities: for Elders were ordained *κτι τασι*, according to the severall Cities, in every City. From hence it followeth that the Presbetry or company of Elders spoken of, in *Tim. 4. 14.* was a Society of Presbyters, of one Church consisting of many Congregations, as the Society of Elders or Bishops of the Church of *Ephesus*, the Society of Elders or Bishops of the Church at *Jerusalem*; with the rest. Likewise by the Phrase of the Holy Ghost, these Churches seeme to bee distinguished by the liberties of such Cities. Therefore wee read some of them called thus, *The Church of the Thessalonians*, of the *Laddiceans*, of ^{Thef. 1. 1.} *the Smyrnians*. I desire it may be shewed out of the New ^{Coloff. 4. 16.} ^{Revel. 2. 8.} Testament that any one Congregation did ever bear the name of a Church, a particular constituted Church: or that any Church constituted by Apostolicall men, and named a Church did signify one single Congregation.

* Rom. 16. 5.

tion. I deny not but the name of a Church belongs unto it, and so it doth unto a Society of Christians in a Family*: but this is my demand, whether the Churches wee read of in the history of the New Testament, were such Churches ~~but~~ ^{as} ~~such~~ ^{as} ~~in~~ ^{the} ~~world~~ ^{of} ~~the~~ ^{whole} ~~earth~~ ^{the} ~~whole~~ ^{world}.

And here it may be a Quere, according to the former ground, whether every Society or body Politicke, or distinct Kingdome, if the Gospell be received there, whether that Kingdome may not be as well one particular Church of Christ, as it is one particular Kingdome, Common-wealth, or civill Society of men: and the Society of Pastors and Elders of such a Church, governe them? Again, whether if the whole world were Christian, and if there could be found out a way to hold intelligence and outward communion, and to *meet in one* by their designed Pastors and Officers, whether this association did not constitute one visible Church of Christ? and this Church to be governed by the Society of this Pastors and Elders meeting together? This is the ground, as I conceive, of the lawfulness, venerable authority, and usefulness of a general or Oecumenical councell.

2. All Churches are equal in power and authority, and nothing can bee imposed on one of them by another, but onely by the coombra consent and counsell of the Presbytery or the Synod, where the Elders whom they choose and delegate doe stande and doe all, not in their owne, but in the Churches Names, by and from which they are sent.

3. The Presbytery is greater in authority than the Church-fession of one Parish or Congregation, and the Synod than the Presbytery, 2. Cor. & 19. And not that onely, but who was also chosen of the Churches, v.

23. the messengers or Apostles of the Churches. There may be no Ordination, or Church-censures administered by one alone; this is condemned in Diotrephes, 3. 1ab. 9. 10. I wrote unto the Church, but Diotrephes

superior who loveth to have the preminence receiveth us
not, he receiveth not the brethren, & forbiddeth them that
would, and casteth them out of the Church. While
the distinct orders and degrees of Apostles, &c. were
in the Church, there was a superiority kept in the ex-
ercise of the power of Ordination and censures, 1 Tim.
1. 20. 3 Tim. 5. 22. Tit. 1. 5. and 3. 10.

5 Primacy or Prelacy of one over others of the
same office or degree is condemned, as of one Apostle
over another, &c. Mat. 18. 1. and 20. 21. Luke 22. 24.
25. 26. 29.

6 Christ hath given to no one all power in the Church:
for he hath given to none all fulnesse and perfection of
gifts: but a certaine kinde or kinds, and a certaine mea-
sure of those kindes, to some greater, to some lesser,
Rom. 12. 3. 4.

7 From those gifts of diverse kindes arise the distinc-
tion of members, and the designation of their places
in the mytcall body of Christ, Rom. 12. 3. 4. 5. 1

Cor. 12.

8 All gifts are given to profit withall, that the gifts
may be serviceable to the Church, 1 Cor. 12. 7.

9 If the gifts bee used as of the ability that God gi-
veth, they will bring much glory to God, and profit to
the Church, 1 Pet. 4. 10. 11.

10 The chiefe Apostles have beeene appointed to
employments, for the good of the communion of
Saints by the Church, Acts 15. 2.

Christ hath committed to the chiefe Magistrates al-
so, within their severall Dominions, a power over all
persons and in all causes of the Church for the good
thereof.

First, Over all persons; Rom. 13. 1. Let every soule be sub-
iect to the higher powers. Not to compell infidels to
the faith by force and armes: (such power they have
none) but that they oppresse not the faifthfull, nor hin-
der the propagation of the faith in their Dominions.

G

19.

nor

nor openly profess a false Religion, yea, the Magistrate shoulde hinder to his utmost the private exercise of a false Religion.

Secondly, *In all Causes of the Church: Deut. 17. 59.* he is enjoyned the study of the word that he might rule thereby, *Psal. 2. 12.* kisse the sonne lest he be angry, *1 Pet. 2. 13.* To the King as Supreme, *1 Tim. 2. 2.* for all that are in Supremacy.

20.

The power the Magistrate hath in Church affaires is a power to set up and preserve the true faith, worship, institutions and discipline of Christ, and to prohibite the false: to take away whatever might be a hinderance to true Religion after the example of Hezekiah, Josiah, and Nebuchadnezzar, *2 King. 18. 4.* and *23. 24.* *Dan. 3. 29.* To helpe the Church both with advise and counsell and with goods and revenues, *Psal. 122. 9.* as Nursing-fathers and Nursing-mothers, *Esa. 49. 23.* But if the Magistrate shoulde command and decree unrighteous decrees, wee ought to pray for them, *1 Tim. 2. 1.* but to obey God rather than man, *Act. 5. 29.* *Dan. 3. and 6.*

21.

Besides this, Christ hath given and granted to some an exempted power, exempt after a sort from the power of Magistracy or ministry: which power is either Personall, or Conjugal. Personall is foure-fold,

1 The power in men that are owners over their Temporalls: *Act. 5. 4.* *Whiles it remained, was it not thine owne, and when it was sold, was it not in thine owne power?*

2 A power to marry; (being single persons,) onely in the Lord it ought to bee, *1 Cor. 7. 39. 36.* and *9. 5.* And a power to eate and drinke, to use any Creature of God, and to live of their labours, *1 Tim. 4. 12.* *1 Cor. 9. 4.*

3 A power not to marry, where there is a power over their owne will; this issueth from the gift of continency, *1 Cor. 7. 37.* *Mat. 19. 12.* *There are some that make themselves Eunuchs for the kingdome of Heavens sake;* he that is able to receive it, let him receive it.

4 A power

4 A power appropriated to the Female sexe; the woman hath power over her head in the publique assemblies, and other where, *1 Cor. 11. 10.*

This is the Personall power that is exempt.

The Conjugal power is the power that the married persons have over each others bodies, as pertaining to due benevolence, or the marriage-bed. *The woman bath not power over ber owne body, but the man; likewise the man bath not power over his owne body, but the woman. Defraude yee not one another,* *1 Cor. 7. 3. 4. 5.*

Thus of the power Committed to others, the power permitted followeth.

Christ hath permitted and ordered in just judgment a power to wicked ones: such is to Antichrist,

1. The power of the bottomlesse pit, the key of Hell (not to send whom he will thither, or to fetch soules thence, Christ onely hath the key of Hell and death, *Revel. 1. 18. but*) to let out the smoake of Hell, prepared to darken the Sunne, and apt to engender Locusts, *Revel. 9. 1. 2. 3.*

2. The power of the Romane Empire permitted to him, and in the strength thereof power to make warre forty two Moneths, yea to make warre with the Saints and overcome them, and power to put life or a spirit into the Image of that Empire, *Revel. 13. 5. 7. 12. 15.*

Antichrist also, *the beast that ascends out of the bottomlesse pit*, shall make warre with the two witnesses: (but here wee read not of any power or authority of any sort, no not permitted, but the thing the Beast shall do toward the latter end of his raigne, being scorched, vexed, tormented and plagued by the lawfull power of the two witnesses lively exercised, he shall make warre with the two witnesses) and overcome them, and slay them; and they shall lie dead through the streetes of the Antichristian Dition three dayes and a halfe, *Revel. 11. 7. 8.*

22.

Thus of the power permitted to Antichrist; there is also permitted to Antichristian Locusts power as the Scorpions of the earth have power, and this power is to indure five moneths, *Revel. 9. 3. 5. 10.*

Another branch of this permitted power to wicked ones, is the power permitted to the Saracens and Turkes, whose Hordes have their power in their mouthes and in their tayles; they kill the third part of men, *Revel. 9. 14. 15. 18. 19.*

The comfort of beleevers is this.

1 That all this permitted power is bounded, that it cannot hurt the Saints in respect of their Salvation, or their cause, which is the truth. None are seduced by all this power of Antichrist, that are written in the Lambes booke of life, *Revel. 13. 8.* Christ hath power over all flesh, committed to him of the Father, *that he might give eternall life to as many as the Father hath given him,* *Iob. 17. 2.*

2 That its all under the power of the Christ of God, ordered by him for the speciall good of his people: *Revel. 19. 16.* he hath on his Vesture and on his thigh a name written, *King of Kings, and Lord of Lords.*

3 That Christ in every beleever, be he but a babe, is mighty in him, and he victorious through the power of faith, the might of Christs spirit, and the graces and comforts thereof, *Coloss. 1. 11.* strengthened with all might through his glorious power, unto all patience and long-suffering with joyfullnesse: *1 Iob. 4. 4.* Ye are of God, little children, and have overcome them, for greater is he that is in you, than he that is in the world: *Revel. 12. 11.* And they overcame him by the bloud of the Lambe, and by the word of their testimony, and they loved not their lives to the death.

23. 4 That there is some branch of authority also, given to every particular beleever, to use a spirituall power both Defensive and offensive. *Defensive,* the Lord himselfe and the power of his might, whereby they wrestle not

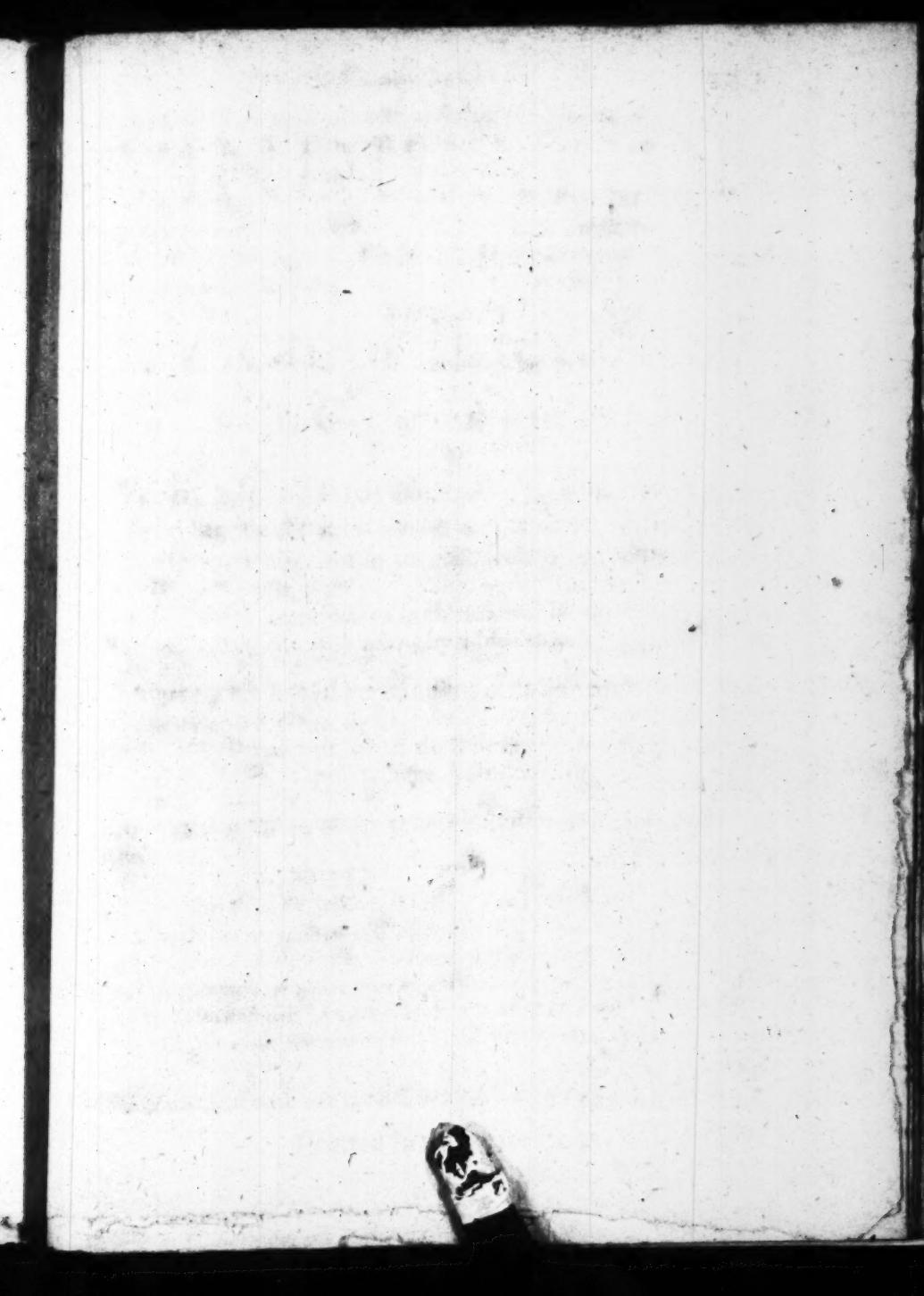
not with flesh and bloud, but against principalities, against powers, &c. arm'd with the whole armour of God, Ephes. 6. 10. 12. 12. By making the most high their habitation, no evill can befall them, no plague come nigh their dwelling; Psal. 91. 9. 10. Offensive also is their power; to tred upon the Serpent and Scorpion, and over all power of the enemy. Compare these places, Gen. 3. 15. I will put enmity between thy seed and her seed: it shall breake thine head, and thou shalt bruise his heele, with Psa! 91. 13. Thou shalt tread upon the Lyon and Adder, the yong Lyon and Dragon shalt thou trample under feete; Luke 10. 18. 19. he sayd to the 70. Behold I give unto you power to tread on Serpents and Scorpions, and over all power of the enemy: and nothing shall by any meanes hurt you; and Rom. 16. 20. And the God of peace shall bruise Satan under your feet shortly. Psa!. 149. 6. 7. 8. 9. Let the high praises of God be in their mouth, and a two edged Sword in their hand, to execute vengeance upon the heathen, and punishments upon the people, to binde their Kings with chaines and their Nobles with fetters of Iron, to execute upon them the judgment written, *This honour have all his Saints:* Not the meanest person sanctifyed by faith which is in Jesus Christ, but by the praises and shoutes of faith, and the prayers of faith, that is, the praises and prayers which come from the heart by beleeving the promises, prophecies, and threatnings of the word, he brings from Heaven vengeance, punishments and executions of judgment upon the greatest and stateliest of the adversaries of the trueth and people of Christ; and by this faith taking hold of vengeance-written fetches from God chaines and Iron-fetters, and claps them on hands and heeles of the sonnes of strength. What should hinder, but that they may say with Deborah, *O my Sonne thou hast trodden downe strength;* Jdg. 5. 21. *Wee are more than Conquerours through him that hath loved us;* Rom. 8. 37.

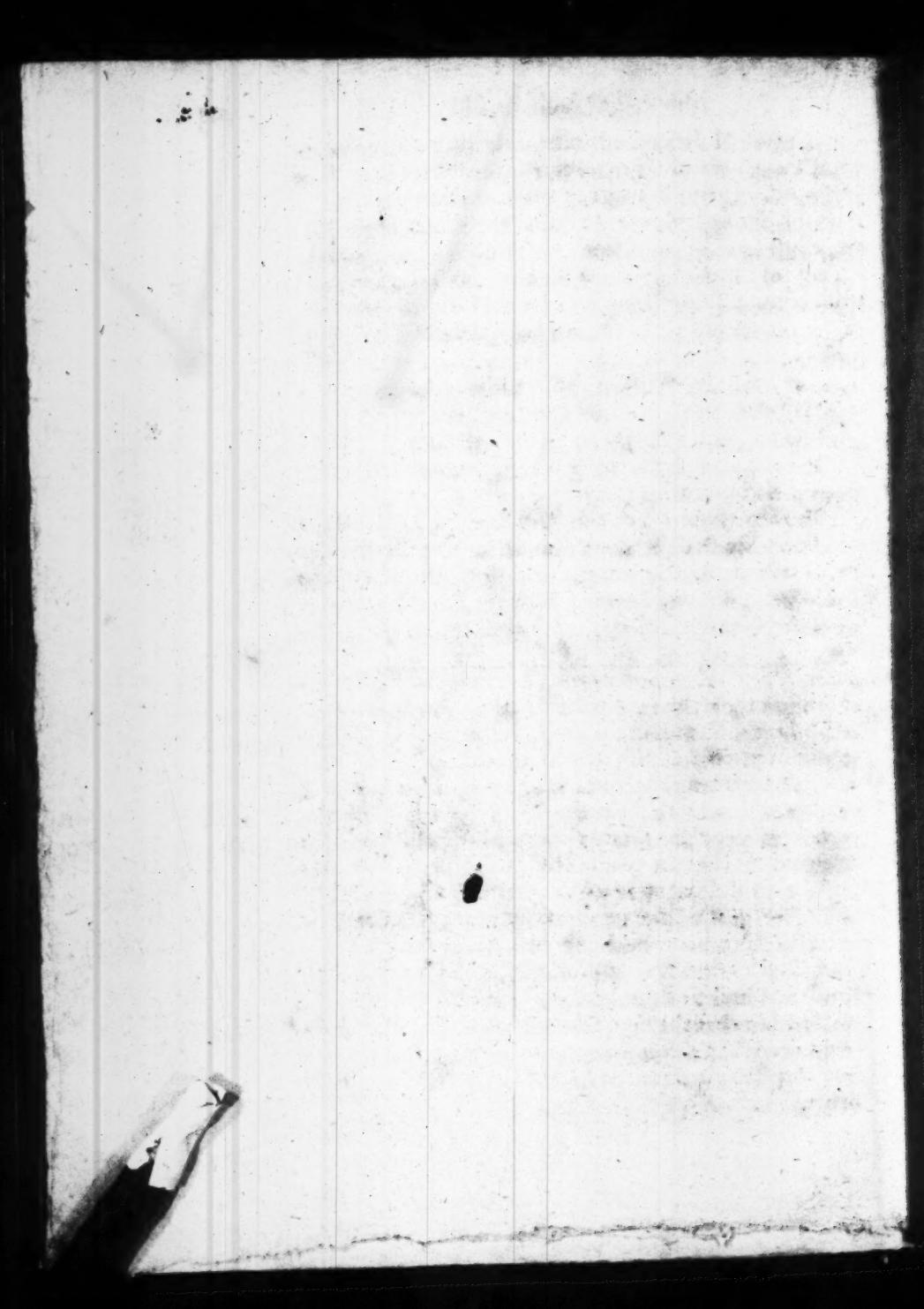
Wherefore all to whom the Gospell is come in power, and all who are *a willing people in the day of Christ's power*, ought to sing the song of Triumph: being no lese by faith in Christ than Heaven-dwellers and Victors.

Now is come salvation, and strength, and the kingdom of our God, and the power of his Christ: for the accuser of our brethren is cast downe, which accused them before our God day and night.

Δόξα τῷ Θεῷ, καὶ τῷ ἀριστῷ

F I N I S.





12

THE VINDICATION OF THE Vicar of Iſtleworth, in the County of Middleſex.

From a scandalous Pamphlet, contayning one
and twenty Articles; invented by ſome, closely; ſub-
ſcribed unto but by ſix, publiquely; preſented but
by one, openly; and now vented in print fur-
reptitiously (in the name of the whole
Pariſh) by a No-body.

Whereunto are likewiſe added certaine notorious Impi-
eties and Misdemeanours of *Gilbert Barrell Attorney, the*
Promoter: which ſhall be fairely and fully
proved, upon just occaſion.

By *William Grant Vicar of Iſtleworth aforesaid.*

R
One Bow, ſix Strings, Shafts one and twenty ſhot,
Discover plaine a moſt malitious Plot:
Tet in this malice, thus it doth befall,
Or ſhort, or wide, or over, they are all,
But only one, *As good luck was, that hit him; *article 11
His uſe of Scripture-phrase, will ſurely ſplit him.



Printed in the yeare 1641.

THE
INDICATION
OF THE
Majority of the
People of Middle

1. *Levi* (ελευθερία) *comitatus* *comitatus* *comitatus*
- *comitatus* *comitatus* *comitatus* *comitatus* *comitatus* *comitatus* *comitatus*

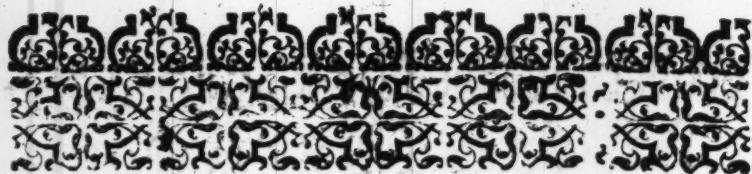
To the Reader.

Courteous Reader,

I hope it, that innocency shall bare thy free
leave to speake in a still voice; when envy,
and malice, and uncharitablenesse shall cry so
loud, and spare not: when it shall bee rould in
Gath, and published in the streets of Ascalon,
which was never so much as whisper'd in the bedchamber; or
once so much as thought upon in the hidden closer of the heart.
Let me also one glance to a modest Vindication; as thou hast
done, formerly, to a shamelesse Calumnia; and suspend
thy censure, till thee triub it selfe shall have time to breake
forth through such malignant clouds; and appeare in its
owne native lustre.

W. G.

A2



THE PETITION.

Hat the Parish of Isleworth is very populous, and full of Gentry and Citizens, and hath for these fortie yeares last past, had severall Lecturers there maintained at their own charge: and of late, one Mr. William Lemmet, Chaplaine to the Right Honourable, the Earle of Northumberland, a learned Divine, and of approved life, and conversation; who hath been for these fourteen years licensed by the Chancellour for our Lecturer, and accepted for such by Reverend Learned Doctors, Prebends of Windsor, successively Vicars of Isleworth aforesaid; untill of late; one Mr. William Grant, Chaplaine to the Bishop of Gloucester, by the procurement of the Archbishop of Canterbury, is become the Vicar there; who hath put out the said Mr. Lemmet, and in his place, employed one Mr. Biford, a man of a very scandalous life, to bee Lecturer there, untill the Parishioners were preferring a Petition to the Parliament against them both: the said Mr. Grant being a man also erronious in opinion, scandalous in life, an exactour of undic fees, wholly unfit for that Sacred Function, as will appeare in the following particulars, here humbly offered unto your grave consideration.

The Answer.

1 That the Parish is indeed very populous, having in it no lesse than a thousand communicants at the least; and yet, of all these, there were but six hands against mee in the petition; to wit, Richard Davmon, William Smith, Gilbert Barrell, George Rustoly, Gera Strong, John Vincent: and I think I may boldly lay it, that there is never a Parish in the whole Kingdome again, where there are so many communicants, but that there are six men in it, that doe stand disaffected to their Minister.

2 That

2 That it is also full of Gentry and Citizens; but, for Citizens, there is not so much as one hand against mee; and, for Gentry, for ought I know, there is but one, if one: two of them are Carpenters, a third, a Miller; a fourth, a Baker; a fift, an Attorney; the sixt, whether a gentleman or no, I know not.

3 That I am no Chaplaine to the Bishop of Gloucester, neither ever was; and, that the only motife, which induced him to conferre his right in this Vicaridge of Iffleworth upon mee, was merely his respects unto my Father, John Grant, Doctor of Divinity, who had formerly been his Tutor in Trinity Colledge, in the University of Cambridge.

4 That all that the Archbishop of Canterbury did in it, was only in writing unto the Deane and Chapter of Windsor, that, if the right of presentation were in the Bishop of Gloucester (as it was, by a Chapter Act) I might not be deprived of it; hee having under his hand, conferred it upon mee.

5 That the Vicaridge, being a very poore thing of it selfe, I was ready, and willing for to supply the place wholly my selfe, that so I might adde to my meanes, and make them a competency: whereupon I gave Mr. Lemmet the Lecturer, a sufficient time to provide himselfe in; in which, hee did provide, and is now settled elsewhere, and that, in a better condition than he was before, as I shall bring very good prooife, from his owne mouth; withall declaring himselfe to be well enough, if they would let him alone; and so, for his part, hee suffered no damage by it.

6 That I found Mr. Bisfield Curate of the place, when I came unto it; and all that I have done, is to retaine him so still. Concerning the scandalousness of his life, alledged, as the Courts of Justice stand open for them against him; so, for my part, I am perswaded, he is able of himselfe, to answer for himselfe.

7 For the erroneousness of my opinions, and scandalousness of my life, and exactacon of vudue fees, I shall give answer to them, in their due place and time.

THAT Mr. Gray hath, eyer since the Fast day in July last, put out the said Mr. Lemmet from being Lecturer, though himselfe confesseth, that hee hath nothing against his life and conversation,

but that hee did it; that hee might root out the puritanes there; and notwithstanding that the same Mr. *Jemmet* hath many small children, most of them bred in the same parish.

Answer.

For the putting out of Mr. *Jemmet*, it is already answered: but that I should use any such phrase, that 'I did it to root out the Puritans', it is as bould and as foule a calumny, as mallice it selfe could possibly have invented, or dishonesty broached. And, had they not both conspired, and strove together in it, of it selfe it had died in the Authors brain that forged it. Indeed, I was once upon occasion, taxed with it openly, before Sir Edward Spence, and Sir Francis Darty, by one Gilbert Barrell Attorney; but, when I demanded of him at that same time, what witnessesse or proof hee had of it, he answered, that one Mr. Lyffer wold avouch it; who no sooner heard of it, but did utterly disclaim it at several times, both unto me and others; and will be ready, at any time (as he hath often told me) to witnesse the contrary to his face.

Article 2.

2 That Mr. *Grant* did promise Mr. *Barrell*, being Church-warden (in the word of a Priest) that if the said Mr. *Barrell* would promise to pay him tenne pounds a yeare (which accordingly was done) then the said Mr. *Jemmet* shoulde be received againe to be Lecturer, and added this execration; let this wine never passe thorow me (taking the glasse and drinking it off) if I make not good this promise: yet nevertheless hee put him out, as aforesaid, within six or eight weeks after that promise and execration.

Answer.

All this I utterly deny; and call God to record upon my soule, that hee may as well say, that I denied the Trinity; or that I blasphemed the Holy Ghost: and shoulde account it one of the greatest afflictions that ever befell mee, should it have been said by any but him, who is a man so generally known what hee is. But, as for him, hee openly professed, before Sir Edward Spence, and many more, upon occasion, that hee was almost drunke at the sametime; and so indeed, I know not what dreams hee might have afterwards; for, it is an execration that I have heard him selfe often using.

Article 3

Article. 3.

3. That Mr. *Grans* putteth holiness in places, and therefore threatened to present the said Mr. *Barrell*, being Church-Warden, for comming once within the raile about the Communion Table, for to receive the money which was collected at the Sacrament; and to put it into the poore box, according to the Rubrick, saying; none must come there but the Priest, for that it was holy ground.

Answer.

That the said Mr. *Barrell*, being Church-Warden, not comming himselfe to the Communion, nor having been so much as once a Communicant with us, for this twelve-moneth together, came running into the Church, at the end of it; and, most uncivilly, snachte away all the money that was given to the poore, as I was in telling it upon the Communion Table; and said, that hee would dispose of it himselfe alone; and, that I should not know so much as what there was; whereupon I said, that I would present him for that his rude, and uncivill action, and intrusion, it having been alwayes the custome of my predecessors in the place, having told the money) to dispose some part of it to such poore people, as hee knew to be necessitous; and to give the rest to the Church-Wardens, to bee disposed of as occasion served. But, that I should say, that it was holy ground, and none should come there but the Priest, is merely an addition of his owne brain to aggravate the Article; and is as false as God is true.

Article. 4.

That the said Mr. *Grans* boweth to the Table when he goeth to it to say his second Service; and at all other times, as often as he goeth by it, and also, when the word *Iesus* is named, though his face be towards the West (when his Curate names that word) yet hee then turnes to the Table, or to the East, and boweth himselfe.

Answer.

1 That there be many of the parish sitting at the seats about the Communion Table; and some of them, at my comming in, rising up, or moving themselves in their respects unto mee, happily I may have bowed or bended towards them (as in civility I could doe no lesse) but to the Table I never did.

2 That

2 That, for my reading of the second Service at the Communion Table, I never did it, but only on communion dayes, which wee are enjoyed by the Rubrick, established by Act of Parliament.

3 That it was no innovation of mine, but was used to bee read there before ever I came into the parish.

4 That this Mr Barrell shat now accuseth mee for reading of it there, was the sole occasion that ever it was read there, complaing unto Doctor Duck of him, who was then Curate, as a Puritan, and non-conforimist, for not reading of it there ; Whereupon (whether by injunction, or no ; I know not) it was read there.

5 That when the word Jesus is named, I doe bow my selfe, it is freely confessed, as it is alleadged ; and so doth the promoter too, not only at the word Jesus, but also of the Father too, or of the holy Ghost, which I doe not. But that, though my face be towards the west, I should immediately upon it, turne it towards the East, let any man but the promoter say it, and I will acknowledge what I never was guilty of.

Article. 5.

That being desired by the Church-Wardens to forbear reading the second Service at the Communian Table, hee answered, hee would not doe it to please the Puritans ; and, that hee dares not doe otherwise ; For, if it should be tould the Archbishop, all the friends hee had should not be able to perswade the said Archbishop, but that hee was a favourer of the Puritans.

Answer.

That I doe indeed remember a motion made by Mr. Barrell to this purpose, and it was in the presence of one Mr. Lyster, who can also testifie with mee, that my only answer was this, that, if it had not been used to be read there before, it should never have been put in use by mee ; but having been used there before, I would not meddle with the altering of it, without injunction, or permission, which afterwards when once I had from Doctor Duck, in his visitation, I presently did.

Article. 6.

6 That hee hath affirmed, that the marrying of the Clergy, is the undoing of the Clergy.

Answer.

Answer.

Not unlikely but I have; neither know I, as yet any reason, why I should recant it: for, for my part, I know not (as yet) any thing that makes more to the undoing of Clergy men, or other; or, that will bring more misery upon them, than the estate of wedlock rashly runne into, before there be sufficient meanes to support it.

Article. 7.

7 That hee hath said, that it will never be well with the Church of England untill confession bee set up in it.

Answer.

This Article I utterly deny.

Article. 8.

That hee hath spoken against the Doctrines of Predestination.

Answer.

What I have spoken against them sleeping, I am not able to say; but certaine I am, that waking, I never did: as for the Pulpit, I have learned better obedience to authority than to meddle in it with points forbidden; and, for other, table or winter fires discourses, to my knowledge, I never spake so much 'as a syllable concerning them to any of my parish, but only once to one gentleman, who inviting me to supper, in private discourse after it, desired my opinion in those points: my answer was (as I well remember) that, for my part, I thought it better a great deale for a man to employ his thoughts in the working out of his own salvation, than curiously to busie them in God's disposal of others.

Article. 9.

9 That he hath affirmed, that pictures are lay-mens books; and that it is lawfull to have them in Churches, and Chappells; and hath

hath desired the Church-Warden to set up the picture of a Saint in the Chancell ; and that hee carrieth to Church with him a testament full of crucifixes, and pictures.

Answer.

1 That happily I might say in occasionall discourse (at the courteous table, and hospitable entertainment of *Gilbert Barrell Attorney*) that pictures are lay-mens books, as from the mouth of *Gregory the great*, whose speech it was, I do not deny it ; but , that I should affirme it, as mine own opinion, I defie it.

2 That I might also (at the same time and place) say some such thing, as that, for mine own part, I was not scandalized, or offended at the sight of them in Churches ; But that I should absolutely affirme the lawfulness of them in respect of others, or ever spake unto him for to set up the picture of a Saint in the chancell , I utterly deny, and abhor it.

3 That I doe carry to Church with mee a Testament full of pictures I confess it, but it was such a one as was printed in Scotland ; and I have carried it but sometimes neither ; only, when I have not been to preach my selfe ; and that , never for the pictures sake, but only in regard of the book of Common-Prayer, which is in it, having it in no book else beside ; this promoter himselfe having long before my time (witnessse the whole parish) most commonly and frequently brought the very same kind of book along with him to the same Church.

Article. 30.

10 That hee hath affirmed, that hee had rather heare an organ (ten to one) in the Church , than singing of Psalmes ; which, scoffingly, hee calls *Hopkins his Jiggs* ; and commanded the Clarke, not to read them in the Church, so that the unlearned could not sing : and further, threatened to present the Church-Warden, if hee would not present one, who on Sunday read the Psalme to one that stood neere him.

Answer.

That I might also say in occasionall discourse, at the time and place aforesaid

aforesaid (for all's but table-talke, with one whose braine runnes upon wheels, and, at that time, ran upon nothing more, than such like discourses, some Priest, or Jesuite having been the last company hee was in, whom hee is well known to have much and often converse with) I say, that I might have also, at the same time, and place, seemed to approve of, for my own particular, the use of Organs in the Church, and to disapproue some particular expressions in Master Hopkins; the grosse mistakes that often slipt from an old dotard, in his reading them to the congregation, and the unbecoming noyse that was made in the Church, when they were read by severall men, in severall corners, I doe not deny: But that I had rather heare an Organ, tennet to one, than singing of Psalmes; that I should call them *Hopkins* his Jiggs, command the clarke not to read them, that the unlearned might not sing; and threaten to present the Church-Warden, if hee would not present one that read them, I also utterly deny and abhorre it.

Article. II.

¶ That hee useth very unabecoming speeches in his Sermons, as speaking of some popish tenents, he said, *marry, as good luck is, wee have the Scripture against them*; and, at another time, of the divells tentations, *marry, as good luck was, God was stronger than the divell.*

Answer.

All the unabecoming speeches I have used in my Sermons, so mouthed out against in the pamphlet, are only one phrase twice used (the phrase of, *good luck is*) which if I have (though never as is alleadged) for my presidient and example, I find it as often used in holy writ: *Good luck have thou with thine honour*, sayes the Psalmist; And againe, *It fortunned* (writes St. John) *that there was a wedding in Cana of Galile; and Iesu was at it*: and if Mr. Pamphlete be such a master of speech as hee pretends to, he should do well to translate the Bible anew, that his ears may not be any more offended with the unabecoming expressions of the old Translators of it.

Article. 12.

12 That bee calleth the booke of Martyrs, a booke of lyes.

Answer.

That I am not of such a judgement, neither ever was.

Article. 13.

13 That he said, that all good fellowship was laid aside in the parish, but hee will bring it in againe, and maintaine it; and would have wine and tobacco for all that would come to his Vicaridge house on Sundayes after Prayers, and he doth make it good, harbouring there at such times, the deboist sort tippling.

Answer.

That I ever said such words, I utterly deny and defie it. Indeed when I tooke possession of the Church, those gentlemen of the parish, who came along with mee in seeming curtesie to it, came also after along with me into the Vicaridge house; and, among other words (as I well remember) I told them, if they would be pleased, to refresh themselves in it I should take it kindly; and, it may be, I might use the phrase, that a glasse of wine, or a pipe of tobacco should be for them that pleased. But, why this speech of mine, that was spoken to those gentlemen (merly in curtesie, upon my first acquaintance with them, and out of an honest desire, to hold and maintain brotherly love, and mutuall charity amoungst my neighbours) should be so traduced, as that I desired to make the same a tippling-house for the deboist sort, let the reader judge; or how I could possibly bee so well versed in the parish, where I had never in all my lifetime bee before; or had ever so much as heard of the place till it was voyd; as to say, all good fellowship was laid aside in it, I doe not desire to bee mine own judge in it.

2 That I should make it good, as they say, by harbouring there at such times the deboist sort tippling: it must needs be a secret aspersion upon their betters, who have been there with mee at such times in a civill way, and cast a most soule and unequitable imputation upon my selfe, who was never yet found guilty in that kind, but doe challenge all the world to produce, and make good

the

the least debauchednesse or tippling that was in it, since I came into the Place.

Article. 14.

That he hath said, that the Sabbath-day is no more than another day ; and that Christmas-day is an higher day than the Sabbath-day ; and that it is a greater day than all the Sabbaths in the yeare : and he also maintaines the book of Sports.

Answer.

That which I said, was at Sir John Offyes table, at dinner in Christmas week last past : The occasion was, upon the great commendation that one William Smith a Baker, gave of the Sermon that had bin preached in my Church on Christmas-day ; whereupon, for my owne part, I professed much dislike of it, for that he said plainly in it, that it was superstition to observe that day : and so in processe of words, further added, that it was as great and as high a day as the Sabbath-day ; in respect of its meaning and signification ; and my reason was, That the Sabbath-day was first instituted in memory of the Creation, but Christmas-day in memory of our Redemption.

Article 15.

15. That he will not suffer any to pray for the sick in the Pulpit ; but use the Prayer appointed for visiting the sick.

Answer.

That I have used the Prayer appointed for visiting the sick, and also wished my Curate to do the like, I do not deny ; but that I should ever forbid, or not suffer the praying for them in the Pulpit, it is a most notorious untruth, having often (as is well known) not onely suffered it, but also practised it my selfe.

Article 16.

16. That hee is an ordinary Gamester at Cards, sitting up untill two or three in the morning.

Answer.

Thus I have indeed played at Cards in my Parish, and in Christ-

mass-time often , and sometimes , it may be , late ; but yet , never neare so late as spoken of ; and alwayes with those that were of good fashion and quality , where I was invited ; And onely for honest , and civill recreation ; never for lucre , or for any summe that's worth mentioning : And therefore , that I should thereupon , be thus scandalously reported of as an ordinary Gamester (having , as farre as I yet conceive , the same use of Christian liberty , in a faire way , as others have) I leave it to the censure of the World .

Article 17.

That when one , preaching there , reproved soule-murdering Ministers , the said Mr. Grant said , that if hee had been as neare the Pulpit , as the Bishop of Lincoln was to Doctor Heylin , hee would have pulled him out of the Pulpit .

Answer.

This Article is in part answered already . This Preacher , they speak of , that reproved so stoutly soule-murdering Ministers , was hee that preaching on Christmassie-Day last patt , said in his sermon , that it was superstition to observe that Day . Whereupon , I , being asked by a Gentleman that sat in the Pew with me , why I would suffer such a fellow to preach in my Pulpit , my answer to him , in his eare , was this , how can I help it ? but , if I were as neare unto him , as the Bishop of Lincoln was to Doctor Heylin , I would also give a knock : And this was all to a syllable .

Article 18.

18 That wee shall have no Lecturer , if wee will not take such a man , as hee will put in ; And that if wee will not be so contented , we shall be contented with one Sermon in a month , that he will preach .

Answer.

This Article is utterly false : For I can bring very good witnesse , of some of the best of the Parish , who will be ready to testifie with me , that I proffered , that if they would bring any man whatsoeuer , that came recommended unto mee , under the hands of Doctor Holdsworth , Doctor Styles , and Doctor Gonge , he should be welcome ;

come; and have the free-liberty of my Pulpit as Lecturer; And have also often said it in open Vestry to them all (which will also be testified, and cannot be denied) that let every man in the Parish that paid any thing towards a Lecturer, have his free voyce also in the choice, that so the major part of the whole Parish might carry it; And then, in the name of God, they might chuse whom they pleased.

Article 19.

19 That he takes away part of the Clarks wages, and gives it to a Boy that rubs his horses heelcs.

Answer.

That, when I came first to the Place, I found one *Lawrence Rutter* Officiating the Place of Parish Clark; but yet, not having any right at all unto it, or legall possession of it, he offered mee (upon my comming) a summe of money, for to continue, and establish him in it; my answer was, that establish him I would not; but, as long as he should carry himselfe as befitted, I would continue him in it; And for his money, bade him onely give a neighbours Boy, that looked to my horse, five shillings a quarter, whiles I could provide my selfe of a man, he being himselfe an old man, and not able to doe it for me; and that was all that I would require of him; which accordingly for two quarters, and no more, he did. Now, I was so farre from taking from his wages, that whereas he had formerly given eight pounds a yeere out of the Place, to the maintenance of a wife and children of the former Clark, by the imposition of some of these Promoters, who had been the meanes to bring him in, and to turn the other out, that I took it off to fifty shillings, and bade him onely give the woman twelve pence a week, and keep the rest to himselfe: So farre was I from diminishing the wages of the Place.

Article 20.

20 That he exacts money for attendance upon Funerals, and other undue fees, four or five times as much as have been within these seven yeeres; challenging, and taking by force, money which is due to

to the Church-Wardens for the time being, for Burials in the Church, and Church-Porch.

Answer.

1 That, when I had waited at a Funerall, from two of the clock till six before they went to the Church with the Corpse, I did indeed, put down in my Bill for Attendance in the generall; but, no summe at all concerning it in the particular; leaving it wholly to themselves.

2 For undue Fees, I never took any, or ever (at any time) more than was accustomed.

3 For taking by force, money that was due to the Church-Wardens, for the Burials in the Church, or Church-Porch, is a most abominable falsehood: Indeed, when a child, once, was buried in an Isle at the upper end of the Chancell, I then conceived, and so do still, that money for the ground belonged to mee; Whereupon, I received the money for it into my own hands, from the Clark who had it in his hands, and gave it presently as shall be proved into the hands of one of the Church-Wardens, for to keep by it selfe, till the right did appeare.

Article 21.

21 That he receiveth the money collected at the Sacrament, and saith that it is money offered; And therefore doth belong to him being Priest there.

Answer.

That, when ever I received it, which was seldom, this Promoter, for the most part comming into the Church on the sudden, and snatching it away, I did immediately distribute every farthing of it amongst the poore; And, as for my saying, that it was money offered; and that it did belong to the Minister, I meant it onely of his disposall; for, that was the Point in controversie.

Thus,

The Bow is broke; Strings cracke; the Shaft all lost:
Assaulting and insulting malice crost.

The

The aforesaid notorious impieties, and
misdemeanours of *Gilbert Barrell*
Attorney.

1 **T**HAT the said *Gilbert Barrell*, hath been seen comming out of
the Queens Chappell, in time of Mass; and himselfe hath
reported , that he sate there in a Romish Priests habit.

2 That being asked, why he went to Mass, he answered , that
therefore hee did it, because he would not goe in a crowd, but turn
Papist before hand.

3 That hee seriously professed, if hee were to begin the world
againe , hee would bee a Jesuite , rather than of any other pro-
fession.

4 That hee plainly affirmed , hee had rather heare a Romish
Priest preach, than any one , or all the Ministers of the Church of
England : And that, if one should heare one of them but once , hee
would hardly heare any of thoe of our Religion againe .

5 That hee commonly brings Pamphlets to the Church, and
reads them in time of Divine Service and Sermon : And , at one
time he brought a Ballad , which having read himselfe , hee gave
to a Gentlewoman in the next Pew to read it also.

6 That being overtaken in his way to *London*, by a Gentleman,
who discoursing concerning the great distraction that was in the
Common-wealth, by reason of delaying of justice upon those two
great men, the late Earle of *Strafford* , and the Archbishop of *Can-
terbury* . Delaying of justice? sayes Master *Barrell* ; I speak really
and upon my conscience, they are absolutely two of the most pious
and

and religious men, that are in the Kingdome of *England*.

7 That when the Railes about the Communion-Table, were riotously broken down by a Tumultuous Company of the said Parish, it being in question before the Justices at Brainford, he said openly, before the same Justices, that it was his act and doing; that hee himselfe did command it to be done, and would justifie the doing thereof.

8 That being bound to the Peace, he ranne at my servant with a pitchfork, when he came only to make Tith-Hay upon his ground; and swore with many oathes, to be his death.

9 That upon occasion he said (before very good witnesse) there being speech made of *Davids* murther and adultery; his murther and adultery sayes Master *Barrell*, if hee had not committed murther, it had been no matter for his adultery.

10 That he often said and avouched, that if ever he fall out with any man, hee will never bee reconciled; and if ever it lie in his power, he will do him the greatest mischiefe he can.

11 That hee did most malitiously, and vexatiously (without any just ground or cause) arrest the foresaid Vicar twice in the Terme last past, and threatneth to doe the same day by day, to the great interruption of him in his Ministry, who is Lecturer in the Collegiate Church of Westminister, to preach there twice a weeke in the Terme time; and was disabled by such vexatious suites to perform the same.

12 That one *Lawrence Rutter*, in the Parish of *Iffleworth*, having bin displaced bythe whole parish from officiating the place of Parish-clerk for most notorious misdemeanours, committed and confessed by him; the said *Gilbert Barrell* notwithstanding endeavoured to introduce him againe, by most unjust and indirect meanes, as namely by using the name of the Right Honourable the Earle of *Northumberland* in open Court, without any order at all from him; who, upon notice thereof, disclaimed it openly, and declared himselfe displeased therat; by meanes whereof the Judges, being falsely possessed by him that it was his Lordships pleasure to have him restored, made a rule, that unlesse *William Grant* should referre his cause to the determination of the said Earle, that writ should issue forth to restore him, which accordingly did; and was recalled again by the aforesaid Judges, upon information of his Lordships disclaiming such abuse

of

of his name. And notwithstanding; that the same *Laurence Rutter* was displaced by the whole parish, and another man chosen by them, and sworne and licensed for the place by the Civill Law; neither could find any relief upon his motion at the Common Law, but was alsoindited for his misdemeanour at the sessions in *Hicks* his Hall; and there bound upon it unto his good behaviour for a twelve-month; and after allthis, was forbidden by the Justices of Peace at their sessions in *Brainford* by a warrant under their hands,not to make any disturbance, in the Church by officiating, but to suffer *Henry Bennet* quietly, to officiate there, untill such timeas hee was evicted by law, being sworn and licensed thereunto; notwithstanding all this, I say, the said *Gilbert Barrell* doth still encourage, and command the aforesaid *Rutter*, that was thus displaced; to officiate the place of parish-Clark, to the high affront and contempt of Justice, and continuall disturbance of the whole congregation.

13 May 2. 1641. *Gilbert Barrell* Attorney, did openly and publickly disturbe *William Grant*, Vicar of *Istleworth*, as hee was preaching in the pulpit to his congregation, by most uncivill words and actions, by laughing, and jeering in his face on the sudden, and immediately after that reading of a pamphlet, and refusing and denyingopenly to lay it aside, or to sit out of sight, being requested thereunto by the said Vicar as hee was in preaching; insomuch, that not being able to proceed in his Sermon (as he himselfe then professed) hee broke off in his Sermon twice, at the first time called for a Psalme, and the second time dismissed us. Upon this misderemeanour the said *Gilbert Barrell* was indited at the sessions in *Hicks* his Hall last past; and it was found *Billa Vera* against him by the Jury.

14 July 18. 1641. The said *Gilbert Barrell* laid violent hands on one *Henry Bennet*, Parish-Clark of the foresaid parish, to pluck him out of a pew, where hee was appointed by the Vicar to sit for to officiate; and againe, getting within him, heaved and thrust at him with like violence, in the time of Divine Service: who being admonished by the Curate beforehand, that he disturbed the whole Congregation; do I said he? I will disturbe it more yet: And presently thereupon, fell upon the foresaid disturbance. Upon this misde-meanor also, he was indited at the forenamed Session, & it was likewise

wife found Bill a vera against him by the foresaid Jury.

15 That the foresaid *Gilbert Barrell* (for the space of eleven or twelve weeks together, lately past) did most notoriously disturbance the whole Congregation, almost every Lords day, in some scandalous way, or other; As namely, sometimes by quarrelling and brawling with this and that man; sometimes by laughing and jeering; and sometimes clapping his hat on his head on the sudden, and running out of the Church in a most uncivill manner, both in time of Service, and Sermon.

*One bow, one string, and shaftis, though not so wary,
Be broke, or crackt, or snap't by him, or any.*

Sic clavis simul & pellitur, & infigitur.

F I N I S.



